

Exhibit 1

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE: METHYL TERTIARY BUTYL *
ETHER ("MTBE") PRODUCTS
LIABILITY LITIGATION *

Master File
No. 1:00-1898

COMMONWEALTH OF PUERTO RICO, *
et al., *

MDL 1358 (SAS)
M21-88

Plaintiffs, *

vs. *

Defendants. *

Case No. 07-CIV-10470 (SAS)

The videotape deposition of:

YAMIRA RIVERA,

HSE Coordinator and a Non-Party Witness for Sol Puerto Rico Limited herein, was held at the DEPARTMENT OF JUSTICE FOR THE COMMONWEALTH OF PUERTO RICO, Ninth Floor, Olimpo Street, San Juan, Puerto Rico 00907, on Wednesday, August 14, 2013, at 9:09 a.m.

<p style="text-align: right;">93</p> <p>1 A. Yes.</p> <p>2 Q. And this was written as of September 11,</p> <p>3 2005.</p> <p>4 Do you see that?</p> <p>5 A. I see that.</p> <p>6 Q. Would you agree that as of September 11,</p> <p>7 2005, based on your experience, that MTBE was</p> <p>8 considered a known groundwater contaminant?</p> <p>9 MR. CONDRON: Object to form. Calls for</p> <p>10 speculation, lack of foundation.</p> <p>11 THE DEPONENT: I wasn't aware at the time.</p> <p>12 BY MS. O'REILLY:</p> <p>13 Q. <u>Did you become aware at any time since</u></p> <p>14 <u>2005 that MTBE was considered a known groundwater</u></p> <p>15 <u>contaminant?</u></p> <p>16 A. While working with Chevron.</p> <p>17 Q. <u>In approximately what year did you learn</u></p> <p>18 <u>that?</u></p> <p>19 A. 2010.</p> <p>20 Q. <u>And how did you learn, come to learn, that</u></p> <p>21 <u>MTBE is a known groundwater contaminant? How did you</u></p> <p>22 <u>learn that?</u></p> <p>23 A. When the case started to-- when I was</p> <p>24 doing the remediation projects with Chevron and then</p> <p>25 they say that we needed to test for MTBE.</p>	<p style="text-align: right;">95</p> <p>1 <u>sampling for MTBE at that time?</u></p> <p>2 A. At some point they-- when I became aware</p> <p>3 it was because then they said to gather all the</p> <p>4 information regarding MTBE on the sites. So I just</p> <p>5 hired a consultant and they gathered all the</p> <p>6 information and that's my involvement in that.</p> <p>7 Q. "And that's" what? I'm sorry. I missed</p> <p>8 the last part of your answer.</p> <p>9 A. That was my involvement with that.</p> <p>10 Q. And what consultant did you hire?</p> <p>11 A. ERTEC.</p> <p>12 Q. E-R-T-E-C?</p> <p>13 A. E-R-T-E-C. Yes.</p> <p>14 Q. Okay.</p> <p>15 And did you hire ERTEC to go out and conduct</p> <p>16 MTBE sampling?</p> <p>17 A. Not that I recall. I was gathering the</p> <p>18 information--</p> <p>19 Q. Okay.</p> <p>20 A. --at the time and there was some sampling</p> <p>21 on some projects.</p> <p>22 Q. Okay.</p> <p>23 When you say gathering information-- when you</p> <p>24 say they, actually, to gather information--</p> <p>25 A. I mean, we were gathering for the legal</p>
<p style="text-align: right;">94</p> <p>1 Q. <u>And that was in 2010 when they asked you</u></p> <p>2 <u>to you test for MTBE?</u></p> <p>3 A. No. I think-- I was implementing the</p> <p>4 program, so I was just going along with what was</p> <p>5 already established.</p> <p>6 Q. Okay.</p> <p>7 Well, let me make sure I understand your answer.</p> <p>8 MS. O'REILLY: (To the reporter) Can I</p> <p>9 have you read back her prior answer.</p> <p>10 THE REPORTER: The last one?</p> <p>11 MS. O'REILLY: The one before.</p> <p>12 THE REPORTER: "ANSWER: When the case</p> <p>13 started to-- when I was doing the remediation</p> <p>14 projects with Chevron and then they say that we</p> <p>15 needed to test for MTBE."</p> <p>16 BY MS. O'REILLY:</p> <p>17 Q. What did you mean by "then they say we</p> <p>18 need to do the test"--</p> <p>19 A. No, no. It was-- it was-- I was</p> <p>20 implementing that. I didn't express myself well. I</p> <p>21 was just implementing-- when I got the cases in Puerto</p> <p>22 Rico, I was just implementing what was going on, so I</p> <p>23 just followed up on the work plan.</p> <p>24 Q. <u>Oh, I see. So when you came into Puerto</u></p> <p>25 <u>Rico, you were implementing a program and they were</u></p>	<p style="text-align: right;">96</p> <p>1 department.</p> <p>2 Q. Oh. Okay.</p> <p>3 THE REPORTER: I'm sorry. "We were"?</p> <p>4 THE DEPONENT: It was for the legal</p> <p>5 department, gathering information for the legal</p> <p>6 department, for all the information preparing</p> <p>7 for the case.</p> <p>8 BY MS. O'REILLY:</p> <p>9 Q. Okay. You mean this case. When you refer</p> <p>10 to "the case," you're referring to this case?</p> <p>11 MR. CEPEDA: Counsel, I've given you some</p> <p>12 leeway, but you're asking her questions about</p> <p>13 another defendant in the case and she's here to</p> <p>14 talk about Sol.</p> <p>15 MS. O'REILLY: I understand she's here to</p> <p>16 talk about Sol, but I'm also-- you put her up as</p> <p>17 a witness and I'm also entitled to inquire about</p> <p>18 her knowledge on the subjects on which you've</p> <p>19 put her up as.</p> <p>20 MR. CEPEDA: Okay. But I'm just reminding</p> <p>21 you she's here--</p> <p>22 MS. O'REILLY: I understand that.</p> <p>23 MR. CEPEDA: --as a Sol representative on</p> <p>24 Sol's time.</p> <p>25</p>

<p style="text-align: right;">101</p> <p>1 A. I cannot. I will have to talk to the 2 expert on that to find out. 3 Q. And who's the-- 4 A. I'm getting--how you call it?--familiar 5 with all these systems now. 6 Q. Okay. 7 A. I didn't used to work for service stations 8 the whole time. Not even, you know, for-- over here. 9 It was mainly, like I said before, terminals and 10 compliance, but not-- kind of the service stations, 11 there were other people working with service stations. 12 Q. So it's a new area for you? 13 A. Huh? 14 Q. It's a new area for you? 15 A. Kind of. Yes. 16 Q. Did you see any documents in preparing for 17 your deposition which indicated that Sol was taking 18 specific steps to address very, very small releases at 19 their service stations? 20 A. I don't know. 21 Q. Did you see any documents that discussed 22 that? 23 A. No. I'm trying to get familiar with a lot 24 of documents now. 25 Q. Since 2001, have you seen-- did you see</p>	<p style="text-align: right;">103</p> <p>1 get to the remediation-- 2 A. Okay. 3 Q. --program, but I want to focus on the 4 tanks themselves. 5 Did you review any documents in preparation for 6 your deposition which indicated that Sol was taking 7 additional precautions with its tanks to address MTBE? 8 A. I don't recall. 9 MR. CEPEDA: Same objection. 10 BY MS. O'REILLY: 11 Q. Okay. You don't recall seeing anything. 12 A. I don't recall any. Right. I don't 13 recall. 14 Q. Okay. 15 A. I saw too many documents. 16 Q. Okay. 17 <u>When you started with Sol, did anybody talk to</u> 18 <u>you about MTBE as a groundwater contamination problem?</u> 19 A. No. They talked to me about the 20 <u>environmental program that was going on, but not--</u> 21 <u>specifically going talking into MTBE, no.</u> 22 Q. Okay. 23 THE REPORTER: This would be ten. 24 (A document is marked for purposes of 25 identification as Deposition Exhibit</p>
<p style="text-align: right;">102</p> <p>1 any documents that-- at least since 2005 that-- where 2 Sol discusses taking additional steps at its service 3 stations with the tank system specifically to address 4 preventing releases of MTBE? 5 MR. CONDRON: Objection. Lacks 6 foundation. 7 THE DEPONENT: I really don't know. I 8 don't know. Like specifically for MTBE, I don't 9 know. I know for the rest of-- you know, for 10 everything-- for any release. Yes. 11 BY MS. O'REILLY: 12 Q. Okay. Do you recall-- let me make sure I 13 have a clear picture. 14 Do you recall seeing any documents that you 15 reviewed to prepare for your deposition where it stated 16 Sol was taking additional precautions at the USTs at 17 its stations specifically to address MTBE? 18 MR. CEPEDA: Asked and answered. 19 MR. CONDRON: Same objection. 20 THE DEPONENT: Well, when we're doing the 21 projects now, the environmental program that is 22 being taken care of-- implemented, we test for 23 MTBE. 24 BY MS. O'REILLY: 25 Q. And I want to focus on the tanks. We'll</p>	<p style="text-align: right;">104</p> <p>1 No. 10.) 2 MR. CEPEDA: Is it both one exhibit? 3 MS. O'REILLY: Yes. There's an English 4 translation in the back. 5 THE DEPONENT: Thank you. Excuse me. 6 MS. O'REILLY: I only have Spanish 7 versions left. But I have extra copies of the 8 Spanish. 9 And I'm sorry. I-- 10 THE REPORTER: Ten. 11 MS. O'REILLY: Ten. 12 For the record, I've marked as Exhibit 10 13 a Spanish language document entitled "Shell 14 Company Puerto Rico Limited, Memorandum," dated 15 August 4th, 1988, and it's Bates stamped SOL 16 Focus Site Production 5/22/2012 - 6958 through 17 6966. And I've also attached a translation of 18 the memorandum, not the attached laboratory 19 reports, and the English translation is also 20 Bates stamped SOL Focus Site Production 21 5/22/2012 - 6958 through 6960. 22 BY MS. O'REILLY: 23 Q. And take your time and let me know when 24 you're done reviewing this. 25 A. Okay.</p>

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE: METHYL TERTIARY BUTYL *
ETHER ("MTBE") PRODUCTS
LIABILITY LITIGATION *

Master File
No. 1:00-1898

COMMONWEALTH OF PUERTO RICO, *
et al., *

MDL 1358 (SAS)
M21-88

Plaintiffs, *

vs. *

Defendants. *

Case No. 07-CIV-10470 (SAS)

The videotape deposition of:

DARIO ENRIQUE AMADEO-CEDO,

General Manager for Sol Puerto Rico Limited and a
Non-Party Witness herein, was held at the DEPARTMENT OF
JUSTICE FOR THE COMMONWEALTH OF PUERTO RICO, Ninth
Floor, Olimpo Street, San Juan, Puerto Rico 00907, on
Tuesday, August 13, 2013, at 9:03 a.m.

<p style="text-align: right;">37</p> <p>1 The time is 10:02. Off the record.</p> <p>2 (Off the record.)</p> <p>3 THE VIDEOGRAPHER: We're back on the</p> <p>4 record. The time is 10:17. On the record.</p> <p>5 Tape No. 2.</p> <p>6 BY MR. CARDENAS:</p> <p>7 Q. Mr. Amadeo, before we took our break we</p> <p>8 were talking about your last position that ran from</p> <p>9 2006 through 2011 in which you were the Puerto Rico</p> <p>10 retail manager.</p> <p>11 Is that correct?</p> <p>12 A. Yes. Correct.</p> <p>13 Q. Okay.</p> <p>14 And I thought you mentioned that you had that</p> <p>15 position through 2011.</p> <p>16 A. Yes. Correct.</p> <p>17 Q. And what is the next position that you</p> <p>18 held?</p> <p>19 A. I was-- I worked as country manager for</p> <p>20 some six months, I believe it was, and post that I was</p> <p>21 named general manager.</p> <p>22 Q. So sometime in 2011 you were appointed as</p> <p>23 general manager?</p> <p>24 A. No. I served as country manager for that</p> <p>25 six-month period. I don't remember exactly when my</p>	<p style="text-align: right;">39</p> <p>1 THE DEPONENT: Identical to the Dominican</p> <p>2 Republic case.</p> <p>3 BY MR. CARDENAS:</p> <p>4 Q. Okay.</p> <p>5 MR. CONDRON: Counsel, sorry to interrupt.</p> <p>6 Can we have an agreement that objection by</p> <p>7 one counsel is sufficient for all in the room?</p> <p>8 MR. CARDENAS: That's fine.</p> <p>9 MR. CONDRON: Thank you.</p> <p>10 THE REPORTER: "Sufficient for all three"?</p> <p>11 MR. CONDRON: "For all in the room."</p> <p>12 THE REPORTER: "For all in the room."</p> <p>13 Okay.</p> <p>14 MR. CONDRON: Or on the phone.</p> <p>15 BY MR. CARDENAS:</p> <p>16 Q. Mr. Amadeo, in any one of these capacities</p> <p>17 that we've discussed over your time frame with Shell</p> <p>18 Company Puerto Rico Limited, and now with Sol, were you</p> <p>19 ever responsible for overseeing safety programs for the</p> <p>20 gas stations?</p> <p>21 A. In the capacity of my duties, yes.</p> <p>22 Q. Which ones?</p> <p>23 A. What duties?</p> <p>24 Q. Yes. Let me back up.</p> <p>25 During which time, which position did you hold,</p>
<p style="text-align: right;">38</p> <p>1 nomination or assignment occurred as country manager,</p> <p>2 but it was after 2011.</p> <p>3 Q. And you're currently in the same position,</p> <p>4 as general manager, today?</p> <p>5 A. Correct.</p> <p>6 Q. Mr. Amadeo, let me go back to when you</p> <p>7 transferred to the Dominican Republic.</p> <p>8 Did any of your pension or your paychecks change</p> <p>9 from when you went from Shell Company Puerto Rico</p> <p>10 Limited to Shell Dominican Republic?</p> <p>11 MR. MARQUES: Objection. Irrelevant.</p> <p>12 THE DEPONENT: When I worked with the</p> <p>13 Dominican Republic, I was paid by the Dominican</p> <p>14 Republic.</p> <p>15 BY MR. CARDENAS:</p> <p>16 Q. Okay. And any of your 401 or your</p> <p>17 pensions, did they stay in the same place?</p> <p>18 MR. MARQUES: Same objection.</p> <p>19 THE DEPONENT: Well, I was not able to</p> <p>20 contribute to it while I was not within Shell</p> <p>21 Puerto Rico.</p> <p>22 BY MR. CARDENAS:</p> <p>23 Q. Okay. And what about when you were in</p> <p>24 Costa Rica?</p> <p>25 MR. MARQUES: Same objection.</p>	<p style="text-align: right;">40</p> <p>1 that you were responsible for overseeing the safety</p> <p>2 programs at the gas stations?</p> <p>3 A. During all my positions with Shell,</p> <p>4 because all company officers must retain a focus on</p> <p>5 safety at all times.</p> <p>6 Q. So just to make sure I understand, so even</p> <p>7 from your time when you were a sales rep back in 1991,</p> <p>8 you were responsible for overseeing safety programs</p> <p>9 With the gas stations?</p> <p>10 A. That is one of the duties of a sales</p> <p>11 representative.</p> <p>12 Q. Fair enough.</p> <p>13 And would the same be for overseeing safety</p> <p>14 programs for the delivery of gas at all of the stations</p> <p>15 throughout your career?</p> <p>16 A. Not directly. Only regarding to the gas</p> <p>17 station's operations once the truck arrives at the</p> <p>18 station.</p> <p>19 Q. So once the truck arrives at the station,</p> <p>20 you were responsible for overseeing the safety and the</p> <p>21 delivery of the gasoline at that point.</p> <p>22 MR. MARQUES: Objection. Misstates</p> <p>23 testimony.</p> <p>24 MR. CONDRON: Object.</p> <p>25 MR. CARDENAS: Let me rephrase.</p>

<p style="text-align: right;">125</p> <p>1 Q. Did you review some specific documents</p> <p>2 that helped you prepare to address this topic?</p> <p>3 A. Those which were provided.</p> <p>4 <u>Q. And when did Shell Company Puerto Rico</u></p> <p>5 <u>Limited first learn that it was purchasing gasoline</u></p> <p>6 <u>that contained MTBE?</u></p> <p>7 <u>MR. MARQUES: Objection. Assumes facts</u></p> <p>8 <u>not in evidence.</u></p> <p>9 <u>BY MR. CARDENAS:</u></p> <p>10 <u>Q. You can answer.</u></p> <p>11 <u>A. I don't know. I have no knowledge as to</u></p> <p>12 <u>the date.</u></p> <p>13 <u>Q. If I wanted to find out that information,</u></p> <p>14 <u>who would I need to talk to at Sol?</u></p> <p>15 <u>A. If it's regarding Shell, I would imagine</u></p> <p>16 <u>with someone at Shell. But I don't believe that anyone</u></p> <p>17 <u>at Sol is able to answer such questions.</u></p> <p>18 Q. Tell me what generally you understand as</p> <p>19 to when Shell Company Puerto Rico Limited started using</p> <p>20 MTBE in Puerto Rico.</p> <p>21 MR. MARQUES: Same objection.</p> <p>22 THE DEPONENT: I have no knowledge as to</p> <p>23 when Shell.</p> <p>24 BY MR. CARDENAS:</p> <p>25 Q. And when you're saying "Shell," you're</p>	<p style="text-align: right;">127</p> <p>1 A. To my best understanding, no.</p> <p>2 Q. Do you have any knowledge regarding--as</p> <p>3 the Sol corporate representative--whether Sol Puerto</p> <p>4 Rico Limited has distributed any gasoline that contains</p> <p>5 MTBE?</p> <p>6 A. I have none. I don't have such knowledge.</p> <p>7 Q. As the corporate representative for Sol,</p> <p>8 do you have any knowledge regarding whether Sol Puerto</p> <p>9 Rico Limited marketed any gasoline that contained MTBE?</p> <p>10 A. No. And Sol Puerto Rico is not a product</p> <p>11 importer.</p> <p>12 Q. Okay.</p> <p>13 As the corporate representative for Sol Puerto</p> <p>14 Rico Limited, do you have any knowledge whether Sol</p> <p>15 Puerto Rico stored any gasoline that contained MTBE?</p> <p>16 A. Sol Puerto Rico does not store gasoline in</p> <p>17 Puerto Rico.</p> <p>18 Q. Where does Sol Puerto Rico house its</p> <p>19 gasoline?</p> <p>20 A. It doesn't store it. It just simply buys</p> <p>21 its rack supply daily.</p> <p>22 MR. CEPEDA: (To the interpreter) I think</p> <p>23 he said it daily purchases its product at the</p> <p>24 rack.</p> <p>25 THE INTERPRETER: Okay. Thank you,</p>
<p style="text-align: right;">126</p> <p>1 talking about Shell Company Puerto Rico Limited?</p> <p>2 A. Shell in general. Yes.</p> <p>3 <u>Q. During your time that you worked for Shell</u></p> <p>4 <u>Company Puerto Rico Limited, do you recall ever hearing</u></p> <p>5 <u>MTBE discussed?</u></p> <p>6 <u>A. Not at the level I was at, no.</u></p> <p>7 <u>Q. At what level was it discussed?</u></p> <p>8 <u>A. Well, I have no knowledge of that, but not</u></p> <p>9 <u>the one I was in.</u></p> <p>10 <u>Q. Do you ever recall ever hearing the term</u></p> <p>11 <u>"MTBE" while you were working for Shell Company Puerto</u></p> <p>12 <u>Rico Limited?</u></p> <p>13 <u>A. No.</u></p> <p>14 Q. Do you recall ever seeing MTBE referenced</p> <p>15 in any of the retail agreements or supply agreements at</p> <p>16 the stations that you dealt with as a sales</p> <p>17 representative?</p> <p>18 A. In the contracts with the stations? No.</p> <p>19 Q. Do you ever recall ever seeing MTBE</p> <p>20 mentioned on any of the supply agreements that dealt</p> <p>21 with the terminals and different service stations?</p> <p>22 A. Having seen? No, no, no.</p> <p>23 Q. Do you have any knowledge whether Sol</p> <p>24 Puerto Rico Limited has purchased any gasoline that</p> <p>25 contains MTBE?</p>	<p style="text-align: right;">128</p> <p>1 Counsel. I appreciate it.</p> <p>2 BY MR. CARDENAS:</p> <p>3 Q. And when you say at the rack, what are you</p> <p>4 referring to?</p> <p>5 A. Where the trucks go and fill up, if I may.</p> <p>6 Q. Is there a specific location?</p> <p>7 A. For our trucks there is. Yes.</p> <p>8 Q. And which locations are those?</p> <p>9 A. Yabucoa.</p> <p>10 Q. The Shell Yabucoa Chemical facility?</p> <p>11 MR. CONDRON: Object to form.</p> <p>12 THE DEPONENT: It no longer goes by that</p> <p>13 name.</p> <p>14 BY MR. CARDENAS:</p> <p>15 Q. What is it known as now?</p> <p>16 A. I know that it's Buckeye, but I don't have</p> <p>17 much more information than that.</p> <p>18 Q. Okay.</p> <p>19 And prior to that it used to pick up from Shell</p> <p>20 Chemical at Yabucoa?</p> <p>21 A. Yes.</p> <p>22 Q. Okay.</p> <p>23 Do you know how long that took place?</p> <p>24 A. Specifically, what occurred?</p> <p>25 Q. That Sol Puerto Rico Limited was lifting</p>

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE: METHYL TERTIARY BUTYL *
ETHER ("MTBE") PRODUCTS
LIABILITY LITIGATION *

Master File
No. 1:00-1898

COMMONWEALTH OF PUERTO RICO, *
et al., *

MDL 1358 (SAS)
M21-88

Plaintiffs, *

vs. *

Defendants. *

Case No. 07-CIV-10470 (SAS)

The videotaped deposition of:

BRENDA TORANO,

former Shell Puerto Rico Limited (Sol Puerto Rico Limited) employee, current Puma Energy employee, and a non-party witness herein, was held at the law offices of O'NEILL & BORGES, LLC, American International Plaza, Suite 800, 250 Munoz Rivera Avenue, San Juan, Puerto Rico 00918, on Thursday, September 26, 2013, at 9:04 a.m.

<p style="text-align: right;">33</p> <p>1 that was available to me, yes.</p> <p>2 Q. Were you aware when you were with Shell</p> <p>3 that MTBE had in fact been detected in groundwater at</p> <p>4 some of the stations?</p> <p>5 A. MTBE detection, to my knowledge, came in</p> <p>6 at the end of 2005, and it was part of an investigation</p> <p>7 that was done in that market.</p> <p>8 Q. Okay.</p> <p>9 And do you recall service stations that in fact</p> <p>10 MTBE was found in groundwater at the stations?</p> <p>11 A. Yes, I remember that MTBE was found in</p> <p>12 various of the stations.</p> <p>13 Q. Did anyone-- did you talk to anyone about</p> <p>14 why that MTBE was there in groundwater at those</p> <p>15 stations?</p> <p>16 A. Not that I recall.</p> <p>17 Q. Did anyone tell you that that MTBE needed</p> <p>18 to be cleaned up out of groundwater at those stations?</p> <p>19 A. I don't remember in that specific context,</p> <p>20 but part of the process after they did the test was to</p> <p>21 notify the agencies and come up with a plan to clean it</p> <p>22 up.</p> <p>23 Q. And was there a specific plan, a remedial</p> <p>24 alternative or option, that was proposed for addressing</p> <p>25 the MTBE in groundwater?</p>	<p style="text-align: right;">35</p> <p>1 Q. And what was-- was there any concern about</p> <p>2 MTBE contamination in groundwater at service stations</p> <p>3 in those discussions?</p> <p>4 A. At least what I remember, the concern was</p> <p>5 raised, they raised the point, because these studies</p> <p>6 had been done, but it was a study that Shell did</p> <p>7 internally. It was not a study that had been asked for</p> <p>8 by the agency.</p> <p>9 Q. Do you know why this internal study was</p> <p>10 done for Shell?</p> <p>11 A. Yes, because Shell was in the process of</p> <p>12 evaluation for sale.</p> <p>13 Q. The sale of the Puerto Rico unit?</p> <p>14 A. Correct.</p> <p>15 Q. So it was like a due diligence process?</p> <p>16 A. Correct. Shell commissioned a study to</p> <p>17 investigate the conditions of each site in order to</p> <p>18 continue with the sales process.</p> <p>19 Q. Do you recall if any time after those</p> <p>20 studies were completed that Shell gave those studies to</p> <p>21 EQB?</p> <p>22 A. If I recall correctly, yes, and a program</p> <p>23 was presented that the agency approved for each site to</p> <p>24 be able to do the remediation program.</p> <p>25 Q. Okay.</p>
<p style="text-align: right;">34</p> <p>1 A. Not that I recall. No. The agencies that</p> <p>2 we were dealing with were concerned with benzene, TPH</p> <p>3 and BTEX and MTBE, while later on that would've been</p> <p>4 one of the items of concern.</p> <p>5 Q. Did you have any understanding of MTBE's</p> <p>6 fate and transport characteristics once it got into</p> <p>7 groundwater?</p> <p>8 A. What I have read in terms of information</p> <p>9 and process and how it can move, yes.</p> <p>10 Q. And where did you read that information?</p> <p>11 A. Well, in the EPA documents or documents</p> <p>12 about cleanup and remediation, and mostly articles that</p> <p>13 appear on the EPA site on the internet.</p> <p>14 Q. Okay.</p> <p>15 And when did you-- when approximately did you</p> <p>16 learn about how MTBE moves in groundwater?</p> <p>17 A. I don't remember exactly, because I've</p> <p>18 always liked to read a lot about my topic and it could</p> <p>19 have been any time during when I was working for the</p> <p>20 Environmental Quality Board or later.</p> <p>21 Q. Did-- was MTBE ever discussed amongst your</p> <p>22 cluster group of Shell people, MTBE contamination?</p> <p>23 A. I remember that, yes, it was mentioned as</p> <p>24 part of the process of the findings in the 2005 study</p> <p>25 that was done for the portfolio.</p>	<p style="text-align: right;">36</p> <p>1 And was there a generic remediation process,</p> <p>2 like a generic work plan, that was applied to each</p> <p>3 station, or did each station-- did you develop a</p> <p>4 separate work plan for each station?</p> <p>5 A. No. During the time that I worked for</p> <p>6 Shell, and shortly afterward, the investigation in</p> <p>7 2005, after that they developed a plan and it was</p> <p>8 submitted to the agency. They did talk about</p> <p>9 investigating the condition of each station, but the</p> <p>10 first one was just a snapshot, a baseline, and then</p> <p>11 further investigation was initiated, but I'm not</p> <p>12 familiar with that because I wasn't with the company at</p> <p>13 that time.</p> <p>14 Q. Okay.</p> <p>15 Was there ever a corrective action plan prepared</p> <p>16 to address the contamination at the Shell stations</p> <p>17 found after 2005 while you were with Shell?</p> <p>18 A. No, because what was being implemented in</p> <p>19 my time was to amplify the investigation that was done,</p> <p>20 the findings in 2006, to then remediate.</p> <p>21 Q. So like a Phase II? You were working on a</p> <p>22 Phase II investigation of certain stations, or all</p> <p>23 stations?</p> <p>24 A. I'm not sure what you mean by "Phase II,"</p> <p>25 but this was a more comprehensive investigation of the</p>

<p style="text-align: right;">57</p> <p>1 make water taste good?</p> <p>2 A. There's still no MCL for MTBE, but I don't</p> <p>3 understand that by experience, direct experience. I</p> <p>4 just know from the information that was given that they</p> <p>5 were saying that there was a drinking water advisory</p> <p>6 regarding MTBE.</p> <p>7 Q. And you're referring to an EPA drinking</p> <p>8 water advisory?</p> <p>9 A. Correct.</p> <p>10 Q. And that's available on the EPA web site?</p> <p>11 A. Correct.</p> <p>12 Q. Did you receive any information internally</p> <p>13 from Shell that-- about MTBE and its unpleasant taste</p> <p>14 or odor in drinking water?</p> <p>15 A. Not that I remember.</p> <p>16 Q. At this time, in 2001, was it your</p> <p>17 understanding that if MTBE was detected in groundwater</p> <p>18 at a retail station that Shell might be required to</p> <p>19 clean it up?</p> <p>20 A. For 2001 no sampling was done for MTBE, so</p> <p>21 there was no process, because the agency didn't require</p> <p>22 any sampling of MTBE.</p> <p>23 Q. Okay.</p> <p>24 But my question is more when you were writing</p> <p>25 this e-mail and you said "new parameters to remediate</p>	<p style="text-align: right;">59</p> <p>1 and where they establish a list of cleaning</p> <p>2 requirements that include now MTBE.</p> <p>3 Q. The-- because of MTBE's characteristics,</p> <p>4 do you think it would have been okay to establish one</p> <p>5 cleanup level, or were there other factors that should</p> <p>6 be taken into consideration when establishing a cleanup</p> <p>7 level for MTBE in groundwater? Should it be station</p> <p>8 specific, or should it-- or should it have been</p> <p>9 general?</p> <p>10 MR. MARQUES: Objection. Compound and</p> <p>11 calls for an opinion.</p> <p>12 MR. ALLEN: Calls for a legal conclusion,</p> <p>13 calls for speculation.</p> <p>14 THE DEPONENT: There should be an</p> <p>15 evaluation of risk to determine the criteria for</p> <p>16 cleanup for everything in general, all of the</p> <p>17 parameters.</p> <p>18 BY MS. O'REILLY:</p> <p>19 Q. Were you aware, or did you have an</p> <p>20 understanding, that MTBE posed a different risk to</p> <p>21 drinking water supplies than the BTEX compounds?</p> <p>22 A. From what I read, I understand that</p> <p>23 benzene is a component of this and that has been</p> <p>24 known-- has been found to be a known carcinogen, that</p> <p>25 the benzene has been found to be a carcinogen. There's</p>
<p style="text-align: right;">58</p> <p>1 in the future," were you thinking that if MTBE was</p> <p>2 detected in groundwater if the sampling was done, that</p> <p>3 Shell might be required to remediate it?</p> <p>4 A. Yes. If the agency required it, then the</p> <p>5 agency was going to establish criteria and was going to</p> <p>6 require cleanup.</p> <p>7 Q. Okay.</p> <p>8 The next paragraph says, "As soon the amendments</p> <p>9 become official, I think that the best way to address</p> <p>10 the issue is have a meeting with the industry," and</p> <p>11 then you have "Texaco" in parentheses, "and analyze the</p> <p>12 possible actions to challenge the position of the</p> <p>13 government."</p> <p>14 Do you see that?</p> <p>15 A. Yes.</p> <p>16 Q. What did you mean by "challenge"?</p> <p>17 A. The detail with the agency is that it</p> <p>18 doesn't evaluate risk analysis to establish terms for</p> <p>19 the cleanup, and it has been, and it's still, a</p> <p>20 situation where it doesn't detail the risks to be able</p> <p>21 to take the site to an acceptable level.</p> <p>22 The terms for cleanup are arbitrary in terms</p> <p>23 that they're not in the established regulations, and</p> <p>24 even as recently as 2012 is when they have actually</p> <p>25 established a guide that's not part of the regulations</p>	<p style="text-align: right;">60</p> <p>1 already a drinking water criteria that's established</p> <p>2 for it, but there isn't such for MTBE, and that would</p> <p>3 be part of the investigations or the determinations for</p> <p>4 the effects that it could have.</p> <p>5 <u>Q. Were you ever provided documents</u></p> <p>6 <u>internally from Shell indicating that at service</u></p> <p>7 <u>stations, for example, in the United States, MTBE was</u></p> <p>8 <u>more frequently detected in drinking water than benzene</u></p> <p>9 <u>at service stations?</u></p> <p>10 A. Not that I received any. I do remember</p> <p>11 seeing documents, but it was on the internet.</p> <p>12 <u>Q. And that was something that you looked up</u></p> <p>13 <u>yourself?</u></p> <p>14 A. Yes. Correct.</p> <p>15 Q. Do you recall asking anyone in your</p> <p>16 cluster why there was a concern about MTBE in</p> <p>17 groundwater at service stations?</p> <p>18 A. No, because the cluster, as I indicated</p> <p>19 before, we didn't have any communication with Shell US.</p> <p>20 Even when Puerto Rico was under US legislation, there</p> <p>21 was still not that communication between them.</p> <p>22 Q. Okay.</p> <p>23 But in your cluster, did anyone talk about "Why</p> <p>24 are we sampling for MTBE? Why are we being asked about</p> <p>25 MTBE?" When it first came up, did you talk about it in</p>

Transcript of the Testimony of Carlos Cuevas

Date: May 7, 2013

Volume:

Case: Commonwealth of PR v. Shell Oil Company.

Printed On: October 17, 2014

Joanne de Thomas
Phone: 787.501.3007
Email: joannedethomas@yahoo.com

Cuevas

<p style="text-align: right;">33</p> <p>1 the maintenance person to repair, they would have to</p> <p>2 approve the repair.</p> <p>3 A. Yes, because apparently it became more</p> <p>4 expensive. So apparently they had to give the order</p> <p>5 for them to come and check.</p> <p>6 Q. And Shell paid for that.</p> <p>7 A. They were always responsible for that.</p> <p>8 Q. Okay.</p> <p>9 When you had a leak underground, under the</p> <p>10 ground, what did you do when you found that out?</p> <p>11 A. Immediately you had to not sell anymore</p> <p>12 gasoline and call Shell for them to come and verify</p> <p>13 from where that gasoline was coming from.</p> <p>14 Q. Where it went?</p> <p>15 A. Yes, where it went. Because gasoline</p> <p>16 runs.</p> <p>17 Q. And so Shell would come out and be</p> <p>18 responsible for finding out where the gasoline went</p> <p>19 that escaped the tank.</p> <p>20 A. And we were responsible for calling them</p> <p>21 on time.</p> <p>22 Q. Do you know how to check where the</p> <p>23 gasoline went if it escaped the tank?</p> <p>24 A. No, I didn't know how to check that. But</p> <p>25 gasoline always runs. It runs the way water runs.</p>	<p style="text-align: right;">35</p> <p>1 the press?</p> <p>2 THE INTERPRETER: I'm sorry. "What did</p> <p>3 you find"?</p> <p>4 MS. O'REILLY: "What did you find out</p> <p>5 about it from the press?"</p> <p>6 (The interpreter addresses the deponent in</p> <p>7 Spanish.)</p> <p>8 THE DEPONENT: I found out about that</p> <p>9 component that the gasoline has and that it</p> <p>10 caused harm to new automobiles, new ones, and</p> <p>11 that has caused that Shell sells more.</p> <p>12 BY MS. O'REILLY:</p> <p>13 Q. Did you learn in the press that MTBE gets</p> <p>14 into water that people drink?</p> <p>15 MR. BOLLAR: Objection to form.</p> <p>16 THE REPORTER: Who objected? I can't see.</p> <p>17 (Mr. Bollar indicates.)</p> <p>18 THE DEPONENT: No, I haven't learned that.</p> <p>19 No.</p> <p>20 BY MS. O'REILLY:</p> <p>21 Q. Did you ever learn that--</p> <p>22 (Ms. Lopez privately confers with.</p> <p>23 Ms. O'Reilly.)</p> <p>24 MS. O'REILLY: Oh. Let's see if we can</p> <p>25 clarify that.</p>
<p style="text-align: right;">34</p> <p>1 Q. And who explained to you that gasoline</p> <p>2 runs where water runs?</p> <p>3 A. In the course that Shell gave.</p> <p>4 Q. Did it say that the gasoline would go far,</p> <p>5 a long way?</p> <p>6 A. Yes, because gasoline weighs less than</p> <p>7 water. The water goes below and the gasoline goes</p> <p>8 above and it runs faster.</p> <p>9 Q. Does it-- when did you learn that?</p> <p>10 A. In the school. They showed us that in the</p> <p>11 Shell school.</p> <p>12 Q. Did they show you that when you-- in 1968?</p> <p>13 A. In 1968, and they would remind us of it</p> <p>14 practically every year.</p> <p>15 Q. Okay.</p> <p>16 And did you-- when you were operating the</p> <p>17 station, were you told by Shell that they were putting</p> <p>18 MTBE in the gasoline?</p> <p>19 A. At no time.</p> <p>20 Q. Do you know what MTBE is?</p> <p>21 A. I found out about some weeks or months</p> <p>22 ago.</p> <p>23 Q. How did you find out?</p> <p>24 A. The press. The press. Radio, television.</p> <p>25 Q. And what did you find out about it from</p>	<p style="text-align: right;">36</p> <p>1 BY MS. O'REILLY:</p> <p>2 Q. Let me clarify a word I'm using.</p> <p>3 M-- methyl tertiary butyl ether, MTBE.</p> <p>4 A. "V," or "B" as in "boy"?</p> <p>5 Q. "B" as in "boy."</p> <p>6 A. Yes.</p> <p>7 Q. Was that the same thing that you heard</p> <p>8 about in the press?</p> <p>9 A. No, it's not the same thing.</p> <p>10 Q. Okay.</p> <p>11 <u>Did you ever learn while you were operating the</u></p> <p>12 <u>station that the MTBE was in the gasoline?</u></p> <p>13 A. No, I never learned that. I never had</p> <p>14 that information.</p> <p>15 Q. <u>Did you ever learn that the MTBE was a</u></p> <p>16 <u>component of gasoline?</u></p> <p>17 A. No, I did not know that.</p> <p>18 Q. <u>Did you ever learn that MTBE can get into</u></p> <p>19 <u>water that you drink?</u></p> <p>20 MR. BOLLAR: Objection to form.</p> <p>21 THE DEPONENT: No, I never learned that.</p> <p>22 BY MS. O'REILLY:</p> <p>23 Q. Did you learn that gasoline can get into</p> <p>24 the water that you drink?</p> <p>25 A. Yes, it can get into it. It can get into</p>

GASOLINE SERVICE STATION
LEASE CONTRACT

Entered into on April 8, 1988 between The Shell Company (Puerto Rico) Limited (hereinafter referred to as the "Company") and Carlos Cuevas, in his capacity as the business operator (hereinafter referred to as the "Lessee").

This Contract includes Annex A, Lessee's Maintenance Obligations, incorporated herein by reference.

1. DEFINITIONS: The following definitions will be used in this Contract, in the singular as well as in the plural:

(a) Alteration, refers to any change, addition, modification, improvement, removal or replacement of any building or equipment located at the Station;

(b) Commercial entity, refers to any legal entity other than an individual person, including but not limited to, a company, corporation, cooperative, trust, succession or association;

(c) Station, refers to the property occupied by the gasoline and/or diesel fuel dispatch station, as well as the buildings and improvements currently located or located in the future on the property, all of which will be incorporated into the Station, to be operated by the Lessee in the manner stipulated and for the use specified in Article 5;

(d) Expiration, refers to the end of the term specified in Article 5 or any extension as described in Article 13 or agreed upon in writing by the Company and the Lessee;

(e) "Shell" Trademarks, refers to the trademarks, registered trademarks, factory trademarks, names, insignias, symbols, logos, service emblems, and "Shell" color schemes, which the Company authorizes the Lessee to use at the Station;

(f) Law, refers to any statute, constitution, ordinance, regulation, administrative order or any regulatory requirements issued by a federal or state agency or an agency or authority of the local government which, unless otherwise specified herein, is in effect on the signature date of this Contract or at any time during its term;

(g) Maintenance, unless the context indicates otherwise, this term refers to maintenance, repairs, replacement, inspections, painting and cleaning;

(h) Non-renewal, refers to non-continuation or non-extension of this Contract by the Company upon expiration of the term specified in Article 3, or of any extension allowed by Article 13 or agreed upon in writing by the Company and the Sub-Lessee;

(i) Petroleum Products, refers to fuel for motor vehicles, including but not limited to gasoline, gas oil and/or diesel;

(j) Termination, will refer to the termination of this Contract for any reason prior to its expiration date.

Cuevas

Deposition	
Exhibit	#4
Jurat	May 7, 2013

DEALER CONTRACT

Entered into on April 8, 1988 between The Shell Company (Puerto Rico) Limited (hereinafter referred to as the "Company") and Carlos M. Cuevas (hereinafter referred to as the "Dealer").

1. DEFINITIONS: As used in this Contract in either the singular or plural form.

(a) Change, refers to any change, addition, modification, improvement, removal or replacement of any building or equipment located at the Station;

(b) Commercial entity, refers to any legal entity other than an individual, including but not limited to a company, corporation, cooperative, trust, succession or association;

(c) Station, refers to the property occupied by the gasoline and/or diesel service station, and the buildings and improvements located at the Station currently or in the future, to be operated by the Retailer in accordance with the stipulations and for the uses specified in Article 6;

(d) Expiration, refers to the end of the term specified in Article 4 or of any extension granted under the terms of Article 21, or any extension to which the Company and the Dealer agree in writing.

(e) Shell Trademarks, refers to the trademarks, factory trademarks, registered trademarks, names, logos and "Shell" color combinations, which the Company authorizes the Dealer to use at the Station;

(f) Law, refers to any statute, constitution, ordinance, regulation, administrative order or any requirement of any federal or state agency or a local government, which, unless otherwise specified herein, is in effect on the signature date of this Contract or at any time during its term;

(g) Maintenance; unless the context indicates otherwise, will refer to maintenance, repairs, replacement, inspections, painting and cleaning;

(h) Nonrenewal, refers to refusal by the Company to continue or extend this Contract at the end of the term specified in Article 4, or any extension described in Article 21 or to which the Company and the Dealer have agreed in writing;

(i) Plant, refers to the Company's distribution plant from which the deliveries of the "Shell" Petroleum Products will normally be made to the Dealer;

(j) Petroleum Products, refers to fuel for motor vehicles, including but not limited to gasoline, gas oil and/or diesel;

(k) Termination, refers to the termination of this Contract for any reason prior to its expiration date.

-3-

6. USE. The Station will be used exclusively for the operation of a station for the retail sale of Petroleum Products.

7. PRODUCTS - QUANTITIES

7.1 ~~The Company will sell and deliver to the Dealer the quantities of~~ "Shell" brand Petroleum Products which the Dealer orders from time to time during the term of this Contract for delivery to the Station. The Petroleum Products will be of the class, grade, brand and quality generally sold by the Company at the time of delivery. The volume of Petroleum Product sales will be subject to reductions or adjustments under the terms of any mandatory or voluntary federal or state allocation program in effect at any time; and even if no allocation program is in effect, deliveries may be subject to reductions, or products may be discontinued in accordance with Article 15.

7.2 The Company may at any time change the grade, specifications, characteristics, brands or any other identification of any "Shell" brand product, and the modified product will continue to be subject to the terms and conditions of this Contract. The Company may discontinue the sale of any product at any time, in which case the Company and the Dealer will be released from any liability in that regard.

8. PRICES - TERMS. The prices will be: (a) for gasoline and diesel, the Company's list prices for direct sale to dealers for the respective grades and brands delivered, in effect on the date of the delivery and for the delivery location; and (b) for lubricants or any other "Shell" brand product, the Company's list prices for direct sale to dealers for the respective grades, brands, containers and quantities delivered, in effect on the date of the delivery and for the delivery location, including any applicable price difference. The list prices will be kept at the Company offices or at the Plant or at any other location specified by the Company. The Dealer will pay the Company for the products at the time of delivery, in cash or by means of a certified or manager's check, postal money order or any combination of the above, as specified by the Company with reasonable prior notice to the Dealer, or under the terms of any credit extended to the Dealer by the Company, which may be changed or revoked by the Company at any time, effective on the date when the Dealer is notified.

9. DELIVERIES. Deliveries will be made to the Station by any means of transportation and in the containers selected by the Company. The Company will not be obligated to make deliveries outside of business hours.

10. TRAINING. Prior to the initiation of the term of this Contract (or as soon as may be practicable), the Company may require that the Dealer satisfactorily pass an initial Company training course designed for the type of operations to be conducted at the Station. At the Company's discretion, the Dealer will participate in additional training appropriate to the activities at the Station, which may include an "Advanced Business Management Seminar" offered by the Company or any equivalent training, which will not exceed two weeks in duration and which the

Exhibit 2

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE: METHYL TERTIARY BUTYL *
ETHER ("MTBE") PRODUCTS *
LIABILITY LITIGATION *

Master File
No. 1:00-1898

COMMONWEALTH OF PUERTO RICO, *
et al., *

MDL 1358 (SAS)
M21-88

Plaintiffs,

vs.

Defendants.

Case No. 07-CIV-10470 (SAS)

The videotape deposition of:

MIGUEL A.TORRES-HERNANDEZ,

a former Esso Service Station Operator, and a Non-Party
Witness herein, was held at the DEPARTMENT OF JUSTICE
FOR THE COMMONWEALTH OF PUERTO RICO, Ninth Floor,
Olimpo Street, San Juan, Puerto Rico 00907, on Monday,
July 8, 2013, at 9:33 a.m.

<p style="text-align: right;">9</p> <p>1 understand that your testimony today is being</p> <p>2 taken by a court reporter as if you are under</p> <p>3 oath.</p> <p>4 Do you understand?</p> <p>5 THE DEPONENT: Yes.</p> <p>6 MS. O'REILLY: And you will tell the truth</p> <p>7 and attempt to be truthful in your answers</p> <p>8 today?</p> <p>9 THE DEPONENT: Yes.</p> <p>10 MS. O'REILLY: Okay. Thank you for your</p> <p>11 time. I apologize for all of the delay in</p> <p>12 getting started and we will try to proceed as</p> <p>13 quickly as possible.</p> <p>14 THE DEPONENT: Okay. Thank you.</p> <p>15 Whereupon,</p> <p>16 MIGUEL A. TORRES-HERNANDEZ,</p> <p>17 is examined and, through the interpreter, deposes as</p> <p>18 follows:</p> <p>19 EXAMINATION</p> <p>20 BY MS. O'REILLY:</p> <p>21 Q. Can you, for the record, state your name.</p> <p>22 A. Miguel A. Torres-Hernandez.</p> <p>23 Q. And what's your address?</p> <p>24 A. Coral Street, Box 1044, Salinas, Puerto</p> <p>25 Rico.</p>	<p style="text-align: right;">11</p> <p>1 Q. Did you-- before working at your father's</p> <p>2 gas station, had you worked at a gas station before?</p> <p>3 A. No.</p> <p>4 Q. And did you receive any training on how to</p> <p>5 operate the gas station?</p> <p>6 A. I don't think so. No. No.</p> <p>7 Q. Did you-- when your father first bought</p> <p>8 the gas station, did you meet with anyone from Esso?</p> <p>9 A. No, no. My father was the one who would</p> <p>10 meet with them. Not me.</p> <p>11 Q. Okay.</p> <p>12 To your understanding, when your father bought</p> <p>13 the station, did he own the property?</p> <p>14 A. No.</p> <p>15 Q. Did he own the underground storage tanks,</p> <p>16 the gasoline system?</p> <p>17 A. No.</p> <p>18 Q. <u>Who owned, to your understanding, the</u></p> <p>19 <u>property where the gasoline station was?</u></p> <p>20 A. The property? Esso Standard Oil Company.</p> <p>21 Q. <u>And the tanks, the gasoline system, who</u></p> <p>22 <u>owned that, to your understanding?</u></p> <p>23 A. Esso Standard Oil Company.</p> <p>24 Q. Did anyone from Esso come to the station</p> <p>25 while you were there to inspect the tanks or the</p>
<p style="text-align: right;">10</p> <p>1 Q. Okay.</p> <p>2 And did you work at a gasoline station that was</p> <p>3 owned by your father?</p> <p>4 A. (In English) Yes.</p> <p>5 Q. And what gasoline station did you work at</p> <p>6 that was owned by your father?</p> <p>7 A. Esso Standard Oil Company.</p> <p>8 Q. And what was the address of the gasoline</p> <p>9 station where you worked?</p> <p>10 A. (Through the interpreter) That was Antonio</p> <p>11 R. Barcelo Avenue No. 1, corner of De Diego.</p> <p>12 Q. Okay.</p> <p>13 And how long did you work at that gas station?</p> <p>14 A. (In English) 20 years.</p> <p>15 Q. And what did-- did you go to the gas</p> <p>16 station every day?</p> <p>17 A. Yes.</p> <p>18 Q. And what were your duties at the gas</p> <p>19 station?</p> <p>20 A. Everything.</p> <p>21 Q. And when you say "everything," what do you</p> <p>22 mean?</p> <p>23 A. (Through the interpreter) Attend to the</p> <p>24 customers, attend to the shop, because there was an oil</p> <p>25 change shop. Everything.</p>	<p style="text-align: right;">12</p> <p>1 dispensers?</p> <p>2 A. They may have.</p> <p>3 Q. <u>Did you see anyone opening the dispensers</u></p> <p>4 <u>and looking inside to inspect them while you were at</u></p> <p>5 <u>the station?</u></p> <p>6 A. Well, throughout the 20 years? The whole</p> <p>7 time, or in the beginning?</p> <p>8 Q. <u>The whole time.</u></p> <p>9 A. Well, yes.</p> <p>10 Q. Did they come on a regular basis?</p> <p>11 A. No.</p> <p>12 Q. How often did they come to inspect the</p> <p>13 tanks and the dispensers?</p> <p>14 A. I don't recall.</p> <p>15 MR. BOLLAR: (To the interpreter) Would</p> <p>16 you mind translating the questions too, because</p> <p>17 I think some of the questions-- I just want to</p> <p>18 be certain that they're-- he's understanding the</p> <p>19 full question. I apologize.</p> <p>20 THE DEPONENT: Yes, yes.</p> <p>21 BY MS. O'REILLY:</p> <p>22 Q. Let me show you something.</p> <p>23 MS. O'REILLY: Oh, Joanne, I'm sorry. Can</p> <p>24 you mark that.</p> <p>25 MR. BOLLAR: Thank you. These are</p>

<p style="text-align: right;">33</p> <p>1 MR. BOLLAR: Objection to form.</p> <p>2 THE DEPONENT: Well, I would.</p> <p>3 BY MS. O'REILLY:</p> <p>4 Q. And did you have a-- when you got the</p> <p>5 measurement from the Veder-Root, did you have something</p> <p>6 to compare it to?</p> <p>7 A. Well, what I explained earlier. The sales</p> <p>8 for the day, the day's sales, had to be compared with</p> <p>9 the measurement.</p> <p>10 Q. Okay.</p> <p>11 And how did you-- how did you calculate the</p> <p>12 day's sales?</p> <p>13 A. With the console. The console. When you</p> <p>14 put the amount of gasoline, there was a button which</p> <p>15 was for the tally, and then the console would say how</p> <p>16 much had been sold supposedly.</p> <p>17 Q. And who installed the console?</p> <p>18 A. Esso.</p> <p>19 Q. Did the Esso representative check the</p> <p>20 console when they came?</p> <p>21 A. I don't recall.</p> <p>22 Q. Did you have any-- convert the numbers to</p> <p>23 allow for temperature change in the gasoline?</p> <p>24 MR. BOLLAR: Objection to form.</p> <p>25 THE DEPONENT: I don't know. I mean, at</p>	<p style="text-align: right;">35</p> <p>1 the customer drove away with it?</p> <p>2 A. I don't think so, because he had already</p> <p>3 finished.</p> <p>4 Q. Do you remember how many times you used</p> <p>5 the sand, or the special sand, on the ground to clean</p> <p>6 up small spills?</p> <p>7 A. I don't recall.</p> <p>8 Q. Once a month maybe, once a year?</p> <p>9 A. Maybe once a year.</p> <p>10 Q. The concrete, was it concrete or asphalt</p> <p>11 around the dispensers where the customers would fill</p> <p>12 their cars?</p> <p>13 A. First it was asphalt and once it was</p> <p>14 remodeled it was concrete.</p> <p>15 Q. Were there cracks or seams in the concrete</p> <p>16 where the people filled up their cars?</p> <p>17 A. I don't recall. I don't think so.</p> <p>18 Q. And do you recall if they put a special</p> <p>19 seal on the concrete to ensure that spills didn't get</p> <p>20 into the concrete?</p> <p>21 A. I don't think so. I mean, I don't recall.</p> <p>22 Q. Did you wash down the concrete, clean the</p> <p>23 concrete?</p> <p>24 A. Yes. Yes.</p> <p>25 Q. How often?</p>
<p style="text-align: right;">34</p> <p>1 least I didn't know anything about that.</p> <p>2 BY MS. O'REILLY:</p> <p>3 Q. Did you hear your father talk about the</p> <p>4 change in the amount of gasoline to vapor because of</p> <p>5 changes in temperature in the tanks?</p> <p>6 A. It may have been.</p> <p>7 Q. Do you recall what he said?</p> <p>8 A. No.</p> <p>9 Q. Do you recall if your father ever</p> <p>10 disagreed with the amount of gasoline that they said</p> <p>11 they delivered to him?</p> <p>12 MR. BOLLAR: Objection to form.</p> <p>13 THE DEPONENT: No, I don't recall.</p> <p>14 BY MS. O'REILLY:</p> <p>15 Q. Did you ever see any customers spill</p> <p>16 gasoline at the station?</p> <p>17 A. No, I don't recall.</p> <p>18 Q. Did any of the customers drive away with</p> <p>19 the nozzle in their car?</p> <p>20 A. Yes, I think once. But since the top of</p> <p>21 the hose of the dispensers had a-- it had something</p> <p>22 that if the hose broke off, it was like a shutoff.</p> <p>23 Q. Automatic shutoff?</p> <p>24 A. I think so. Yes.</p> <p>25 Q. Did any gasoline spill on the ground when</p>	<p style="text-align: right;">36</p> <p>1 A. Sometimes it was about every four months.</p> <p>2 Q. And did you see a sheen on the water, a</p> <p>3 color in the water, when you washed it down, showing</p> <p>4 that there was maybe some gasoline there?</p> <p>5 A. I don't think so.</p> <p>6 Q. And where did the water go when you washed</p> <p>7 it down?</p> <p>8 A. To the sewer.</p> <p>9 Q. When you washed it down, did you smell</p> <p>10 gasoline?</p> <p>11 A. No.</p> <p>12 Q. Did you ever hear that there was</p> <p>13 contamination of the water, the ground water under the</p> <p>14 station, from a leak at the station?</p> <p>15 A. No.</p> <p>16 Q. Okay.</p> <p>17 Did you ever hear that there was MTBE in the</p> <p>18 gasoline?</p> <p>19 A. No.</p> <p>20 Q. And did you ever hear that the-- when you</p> <p>21 were selling the gasoline, did they ever say that the</p> <p>22 gasoline was good for the air?</p> <p>23 A. No.</p> <p>24 Q. Did they ever say-- did you ever have</p> <p>25 marketing or advertising saying that the gasoline was</p>

Transcript of the Testimony of Miguel Torres

Date: May 8, 2013

Volume:

Case: Commonwelath of PR v. Shell Oil Company.

Printed On: October 17, 2014

Joanne de Thomas
Phone: 787.501.3007
Email:joannedethomas@yahoo.com

Torres

<p style="text-align: right;">37</p> <p>1 Tape No. 2.</p> <p>2 BY MS. O'REILLY:</p> <p>3 Q. Did Esso provide you with instructions on</p> <p>4 what to do when there was a spill of gasoline?</p> <p>5 A. Yes. First you would call Mike Pizarro,</p> <p>6 the sales representative, or the company itself.</p> <p>7 Q. And what were you-- after you called them,</p> <p>8 what did you do if you had a spill or a leak of</p> <p>9 gasoline?</p> <p>10 A. No, because-- how could I put it? There</p> <p>11 was one that was small like that. There were no big</p> <p>12 leaks.</p> <p>13 Q. What did Esso instruct you to do after you</p> <p>14 called Mike Pizarro? Did they provide with you any</p> <p>15 other instructions on what to do if there was a</p> <p>16 gasoline spill or leak?</p> <p>17 MR. BOLLAR: Objection to form.</p> <p>18 THE DEPONENT: Well, more or less what you</p> <p>19 would do is you didn't sell more gasoline.</p> <p>20 BY MS. O'REILLY:</p> <p>21 Q. Okay. And did Esso give you any</p> <p>22 instructions about where to look for leaks?</p> <p>23 A. What do you mean "leaks"?</p> <p>24 Q. Well, did Esso--</p> <p>25 A. Oh. Okay. Continue. Continue.</p>	<p style="text-align: right;">39</p> <p>1 THE DEPONENT: Well, the thing is that the</p> <p>2 instructions there practically always came from</p> <p>3 the sales representative. He was the one who</p> <p>4 gave the orders.</p> <p>5 BY MS. O'REILLY:</p> <p>6 Q. So if the sales representative told you to</p> <p>7 do something, you would follow his instructions?</p> <p>8 MR. BOLLAR: Objection to form.</p> <p>9 THE DEPONENT: Well, he was the one who</p> <p>10 knew.</p> <p>11 BY MS. O'REILLY:</p> <p>12 Q. Okay. Did you ever have any customers</p> <p>13 drive off with the gasoline nozzle?</p> <p>14 MR. BOLLAR: Still in the tank?</p> <p>15 MS. O'REILLY: (To the interpreter) Ask</p> <p>16 him.</p> <p>17 (The interpreter complies.)</p> <p>18 THE DEPONENT: No.</p> <p>19 BY MS. O'REILLY:</p> <p>20 Q. Okay. Did you receive information in the</p> <p>21 mail from Esso, notices, instructions?</p> <p>22 A. What about?</p> <p>23 Q. About operation of the station.</p> <p>24 A. Well, whenever they changed a regulation</p> <p>25 or something, they would notify it.</p>
<p style="text-align: right;">38</p> <p>1 Q. Did Esso provide you any instructions on</p> <p>2 how you were supposed to look for any leaks or spills</p> <p>3 of gasoline?</p> <p>4 MR. BOLLAR: Objection to form.</p> <p>5 THE DEPONENT: It was virtually the sales</p> <p>6 representative who did that.</p> <p>7 BY MS. O'REILLY:</p> <p>8 Q. Oh, he would look for the-- the sales</p> <p>9 representative would look for leaks or spills of</p> <p>10 gasoline at the station?</p> <p>11 A. Well, he was the one who instructed you</p> <p>12 more or less on the things you had to do.</p> <p>13 Q. What instructions did he give you?</p> <p>14 A. Well, let's say that there's a spill.</p> <p>15 Call him, call Esso, or call Mike Pizarro.</p> <p>16 Q. And that was it?</p> <p>17 A. Well, first you called Mike Pizarro for</p> <p>18 him to send his brigade to check and see what happened.</p> <p>19 Q. Okay.</p> <p>20 Did you try to follow the instructions that Esso</p> <p>21 gave you on operating the station safely?</p> <p>22 A. Yes.</p> <p>23 Q. And if Esso gave you different</p> <p>24 instructions, would you follow those?</p> <p>25 MR. BOLLAR: Objection to form.</p>	<p style="text-align: right;">40</p> <p>1 Q. Would they explain the regulation to you?</p> <p>2 A. Well, they would send a letter and when</p> <p>3 the sales representative came, if you didn't</p> <p>4 understand, then you would ask him.</p> <p>5 Q. Okay.</p> <p>6 <u>Did Esso tell you that the gasoline they were</u></p> <p>7 <u>providing you had MTBE in it?</u></p> <p>8 <u>A. They did say that, yes, but it was also</u></p> <p>9 <u>the sales representative who did that.</u></p> <p>10 Q. And what did they tell you about MTBE?</p> <p>11 A. I don't know how to pronounce it. Imagine</p> <p>12 if I can remember what they said about it.</p> <p>13 <u>Q. Did they tell you anything about MTBE and</u></p> <p>14 <u>contamination of drinking water?</u></p> <p>15 <u>MR. BOLLAR: Objection to form.</u></p> <p>16 <u>THE DEPONENT: No. Not that I recall.</u></p> <p>17 BY MS. O'REILLY:</p> <p>18 Q. Did they tell you that gasoline with MTBE</p> <p>19 had to be handled more carefully than gasoline without</p> <p>20 MTBE?</p> <p>21 MR. BOLLAR: Objection to form.</p> <p>22 THE DEPONENT: But which of the two</p> <p>23 gasolines had that? Both of them?</p> <p>24 BY MS. O'REILLY:</p> <p>25 Q. Let me ask it this way. Was gasoline with</p>

10 (Pages 37 to 40)

Joanne de Thomas

787.501.3007

joannedethomas@yahoo.com

Torres

<p style="text-align: right;">41</p> <p>1 MTBE handled special?</p> <p>2 MR. BOLLAR: Objection to form.</p> <p>3 THE DEPONENT: But what-- I mean, I don't</p> <p>4 understand what you mean by that.</p> <p>5 BY MS. O'REILLY:</p> <p>6 <u>Q. If gasoline with-- the gasoline with MTBE,</u></p> <p>7 <u>did you handle it differently at the gas station, use</u></p> <p>8 <u>it differently?</u></p> <p>9 <u>MR. BOLLAR: Objection to form.</u></p> <p>10 <u>THE DEPONENT: But my understanding is</u></p> <p>11 <u>that there is no different way to handle</u></p> <p>12 <u>gasolines, because gasoline is premium and</u></p> <p>13 <u>regular.</u></p> <p>14 BY MS. O'REILLY:</p> <p>15 Q. What did Esso tell you about the dangers</p> <p>16 of gasoline for you to operate your station?</p> <p>17 MR. BOLLAR: Objection to form.</p> <p>18 THE DEPONENT: Well, in one of the</p> <p>19 meetings they explained what lead did.</p> <p>20 BY MS. O'REILLY:</p> <p>21 Q. What about safety in handling gasoline?</p> <p>22 What dangers did they explain to you?</p> <p>23 MR. BOLLAR: Objection to form.</p> <p>24 THE DEPONENT: Well, that would be</p> <p>25 touching it and smelling it. What other danger?</p>	<p style="text-align: right;">43</p> <p>1 MS. O'REILLY: Yes.</p> <p>2 MR. BOLLAR: This is double-sided?</p> <p>3 MS. O'REILLY: Yes.</p> <p>4 MS. FRAU: Excuse me. Is there any</p> <p>5 exhibits for the rest of the counsel?</p> <p>6 MS. O'REILLY: We didn't have time</p> <p>7 yesterday to make copies because some of this</p> <p>8 stuff arrived late. So I didn't have time to</p> <p>9 make copies. I did bring one for counsel for</p> <p>10 Exxon.</p> <p>11 For the record, I've marked as Exhibit 1</p> <p>12 an Esso Standard Oil Company Puerto Rico</p> <p>13 "Material Safety Data Sheet" dated April 18,</p> <p>14 1994, Bates stamped XOM-PR-FILES-SUPP-472478.</p> <p>15 BY MS. O'REILLY:</p> <p>16 Q. Have you had a chance to read that?</p> <p>17 A. No.</p> <p>18 Q. Do you recognize that document?</p> <p>19 A. I don't remember ever having seen that</p> <p>20 until now.</p> <p>21 Q. Okay. That's okay. Let me try another</p> <p>22 one.</p> <p>23 MR. BOLLAR: Thank you.</p> <p>24 THE REPORTER: This would be two.</p> <p>25 (A document is marked for purposes of</p>
<p style="text-align: right;">42</p> <p>1 BY MS. O'REILLY:</p> <p>2 Q. Did they explain to you any other dangers</p> <p>3 from gasoline other than handling or smelling it?</p> <p>4 MR. BOLLAR: Objection.</p> <p>5 THE DEPONENT: Well, how could I put it?</p> <p>6 When I started there was hardly no leaded</p> <p>7 gasoline anymore. When there was leaded</p> <p>8 gasoline you had to do blood tests to see if you</p> <p>9 had any lead in your blood.</p> <p>10 BY MS. O'REILLY:</p> <p>11 Q. Okay. Did you receive-- when the gasoline</p> <p>12 was delivered to your station, did you receive some</p> <p>13 paperwork telling you about the gasoline?</p> <p>14 A. Paperwork telling me about the gasoline?</p> <p>15 Q. Yes.</p> <p>16 A. No.</p> <p>17 Q. Okay.</p> <p>18 MS. O'REILLY: (To the interpreter) Oh.</p> <p>19 Sorry. I'm used to having the court reporter</p> <p>20 here.</p> <p>21 THE REPORTER: This will be one.</p> <p>22 (A document is marked for purposes of</p> <p>23 identification as Deposition Exhibit</p> <p>24 No. 1.)</p> <p>25 THE REPORTER: Shall I hand it to him?</p>	<p style="text-align: right;">44</p> <p>1 identification as Deposition Exhibit</p> <p>2 No. 2.)</p> <p>3 MS. O'REILLY: For the record, I've marked</p> <p>4 as Exhibit 2 a January 1995 "Material Safety</p> <p>5 Data Sheet" for Esso Standard Oil Company Puerto</p> <p>6 Rico Bates stamped XOM-PR-FILES-0153706 through</p> <p>7 0153712.</p> <p>8 BY MS. O'REILLY:</p> <p>9 Q. Do you recognize that document?</p> <p>10 (The deponent shakes his head.)</p> <p>11 BY MS. O'REILLY:</p> <p>12 Q. Oh, I apologize.</p> <p>13 A. No.</p> <p>14 Q. You have you to say "no," "yes."</p> <p>15 A. Yes, yes.</p> <p>16 Q. Thank you.</p> <p>17 You don't recall if you ever received one of</p> <p>18 these?</p> <p>19 A. Honestly, as far as recalling is</p> <p>20 concerned, I don't recall.</p> <p>21 Q. Okay. Let me try a couple of more.</p> <p>22 THE REPORTER: This is three.</p> <p>23 (A document is marked for purposes of</p> <p>24 identification as Deposition Exhibit</p> <p>25 No. 3.)</p>

11 (Pages 41 to 44)

Joanne de Thomas

787.501.3007

joannedethomas@yahoo.com

DEALER INFORMATION

Dealer

MIGUEL A. TORRES SIERRA

Address

ANTONIO R. BARCELO, NUMERO 1, CAYEY

Moso

CO-242

CONTRACT INFORMATION

Contract Name

CONTRATO DE ARRENDAMIENTO

@

Sales Organization

2034

@

Relation ID (Ship To / Vendor)

131094

©

Station ID (PBL)

114710

©

Contract Start

4/1/06



Contract End

4/1/09

@

Remarks

RENTA:

ABRIL 1, 2006 A ABRIL 1, 2009:

1,622 .00 DOLARES

262-313-4242

Pag., cover

Torus
#8
May 8, 2013



certifiedtranslate
A LANGUAGE FISH LLC COMPANY

info@certifiedtranslate.com
www.certifiedtranslate.com

604 Arizona Avenue
Santa Monica, CA 90401 USA

usa: 1-888-856-2228
int: +1-310-684-3153
fax: +1-310-564-1944

ata

A member of the American
Translators Association
ATA Member Number: 248719

CERTIFIED TRANSLATION

Documents Translated For:

Name: John Dema, Esq.	Street Address: 1236 Strand Street
Firm: Law Offices of John K. Dema	City/State/Zip: Christiansted / Virgin Islands / 00820

Description of Document(s):

EXCERPTS FROM CONTRACT (14 pages)
XOM-PR-FILES-
0086455 - 0086460; 0086468 - 0086469; 0086471; 0086500 - 0086504

Source Language: SPANISH	Target Language: ENGLISH
--------------------------	--------------------------

WITH REFERENCE TO THE ABOVE MENTIONED MATERIALS/DOCUMENTS, we at Language Fish LLC (doing business as www.certifiedtranslate.com), a professional document translation company, attest that the language translation completed by Language Fish's certified professional translators, represents, to the best of our judgment, an accurate and correct interpretation of the terminology/content of the source document(s). This is to certify the correctness of the translation only. We do not guarantee that the original is a genuine document or that the statements contained in the original document(s) are true.

IN WITNESS WHEREOF, Language Fish LLC has caused the Certificate to be signed by its duly authorized officer(s).

By: Sean Kirschenstein, Director

Date: May 6, 2013

A copy of the translated version(s) is attached to this statement of certification.

State of California
County of Los Angeles

On May 6, 2013 before me, Desa Philadelphia, Notary Public, appeared Sean Kirschenstein, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument. I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.*

Signature





CO-242

4.2.12 ESSO has the right to designate a specific area as the minimum area for entering and exiting required in order to make deliveries of Products to the Station in a safe manner. If the trucker decides, upon attempting to make a delivery, that the area provided for access and exit would not permit the delivery of the Products in a safe manner, ESSO will have no obligation whatsoever to continue or to reschedule the delivery until LESSEE can demonstrate that the access and exit area will permit the safe delivery of the Products.

4.2.13 ESSO may refuse to make deliveries if it suspects that the system of underground tanks at the Station, including but not limited to, dispensing pumps, lines, leak detection systems, containment systems, overfill prevention systems, remediation systems or those related to environmental or safety issues, or monitoring, detection and testing equipment (collectively "Tank System") does not comply with federal, state or local laws, ordinances, rules, regulations, permits, zoning restrictions, authorizations, building codes and other requirements set by federal, state, municipal and local authorities and/or administrative bodies (collectively "Laws"), or if ESSO suspects that the Tank System cannot be used for the storage and handling of Products in a safe manner.

4.2.14 LESSEE agrees to pay ESSO for the products it acquires at the Retail Price ("Dealer Tank Wagon Price") established by ESSO at the time and place of delivery for the Product(s) in question. LESSEE agrees to pay for all merchandise delivered to LESSEE by ESSO under the terms of this Contract using a cashier's check, money order or other means approved by ESSO, including direct debit.

If, due to the application of some or any order, ordinance, rule, decree, legislation, judgment or measure of any type enacted or issued by a government authority, in the opinion of ESSO, prevents ESSO partially or wholly, temporarily or permanently, from collecting, realizing or obtaining an adequate profit or yield on the sale, delivery and distribution of the fuel subject to this contract, ESSO will be entitled, at its option, to suspend all its deliveries and obligations under this and all contracts with LESSEE, with no liability whatsoever on the part of ESSO toward LESSEE. ESSO is to provide LESSEE with adequate notice informing him of its decision and its effective date.

4.2.15 The quantity and quality of the products sold under this Contract will be understood conclusively to be, for all purposes, in the quantity and of the quality set forth in the ESSO delivery document, or of the quality and in the quantity requested, unless LESSEE provides ESSO with written notice of any claim regarding a lesser quantity or deviation from quality within 24 hours following the time of delivery. Time is of the essence for compliance with this provision.

4.2.16 ESSO, at the request of LESSEE, has placed or installed on the premises of the station the equipment identified in Appendix B. LESSEE acknowledges that said equipment is the property of ESSO.

Transcript of the Testimony of Hector E. Berrios

Date: May 9, 2013

Volume:

Case: Commonwealth of PR v. Shell Oil Company.

Printed On: October 17, 2014

Joanne de Thomas
Phone: 787.501.3007
Email: joannedethomas@yahoo.com

Berrios

<p style="text-align: right;">13</p> <p>1 MR. BOLLAR: That is at the discretion of</p> <p>2 Counsel and the witness, I believe.</p> <p>3 MS. O'REILLY: Well--</p> <p>4 MR. BOLLAR: If we want to make sure that</p> <p>5 we get everything exactly right, given that we</p> <p>6 have-- this is a pretty significant litigation,</p> <p>7 I think we should do this in the language that</p> <p>8 the witness feels most comfortable.</p> <p>9 MS. O'REILLY: Counsel, would it be okay</p> <p>10 with you?</p> <p>11 MS. RAMOS: Sure.</p> <p>12 BY MS. O'REILLY:</p> <p>13 Q. Yeah. We're going to go ahead and have</p> <p>14 her translate--</p> <p>15 A. All right.</p> <p>16 Q. --just so we get used to it.</p> <p>17 MS. O'REILLY: Go ahead and translate.</p> <p>18 (The interpreter complies.)</p> <p>19 THE DEPONENT: (Through the interpreter)</p> <p>20 Yes.</p> <p>21 BY MS. O'REILLY:</p> <p>22 <u>Q. Okay. Can you tell me first what was your</u></p> <p>23 <u>relationship to the Esso station in Ponce.</u></p> <p>24 <u>A. In 1998 my father acquired a group of Esso</u></p> <p>25 <u>stations which were named "Esso Serve-A-Car" and within</u></p>	<p style="text-align: right;">15</p> <p>1 rented the property.</p> <p>2 Q. Is it fair to say that at all times for</p> <p>3 the Ponce Villa station Esso owned the gasoline tanks</p> <p>4 and equipment?</p> <p>5 A. Yes.</p> <p>6 Q. Did you or your father, or anyone else on</p> <p>7 your behalf, inspect the tank equipment before you</p> <p>8 purchased the station, the Ponce Villa station, from</p> <p>9 Esso?</p> <p>10 A. Not that I recall.</p> <p>11 Q. Did you rely on Esso to maintain and</p> <p>12 provide you with safe operating gasoline tanks at the</p> <p>13 Ponce Villa station?</p> <p>14 MR. BOLLAR: Objection to form.</p> <p>15 THE DEPONENT: Yes. Yes.</p> <p>16 BY MS. O'REILLY:</p> <p>17 Q. Does your family still own the Ponce Villa</p> <p>18 station?</p> <p>19 A. No. Not since 2000. They were sold in</p> <p>20 2000.</p> <p>21 Q. Who were they sold to in 2000?</p> <p>22 A. I don't remember the name of the person</p> <p>23 who bought Ponce Villa. What I remember is that a</p> <p>24 couple of months later, the person died in a traffic</p> <p>25 accident.</p>
<p style="text-align: right;">14</p> <p>1 <u>that group was Ponce Villa.</u></p> <p>2 <u>Q. And what did you-- what was your</u></p> <p>3 <u>relationship to the station? What did you do in</u></p> <p>4 <u>relation to the Ponce Villa station?</u></p> <p>5 <u>A. We were the administrators.</u></p> <p>6 Q. Did you visit the stations?</p> <p>7 A. Yes, I visited.</p> <p>8 Q. How often?</p> <p>9 A. Ponce Villa, since it was the furthest</p> <p>10 away, I visited there about once or twice a week.</p> <p>11 Q. Did you have an employee who managed the</p> <p>12 day-to-day operations of the station?</p> <p>13 A. Yes. Each station had its manager.</p> <p>14 Q. Okay.</p> <p>15 You have to let her translate me too.</p> <p>16 A. Okay. Sorry.</p> <p>17 Q. Thank you though.</p> <p>18 You said your father purchased. From whom did</p> <p>19 he purchase the stations?</p> <p>20 A. Straight from Esso.</p> <p>21 Q. Did you purchase the property from Esso?</p> <p>22 A. No.</p> <p>23 Q. Did you purchase the tanks and gasoline</p> <p>24 equipment from Esso?</p> <p>25 A. The equipment was theirs. We merely</p>	<p style="text-align: right;">16</p> <p>1 Q. Did you find-- your-- you or your family</p> <p>2 find the buyer for the Ponce Villa station, or did Esso</p> <p>3 find you a buyer?</p> <p>4 A. No. It was Esso. Esso.</p> <p>5 Q. Why did your family sell the Ponce Villa</p> <p>6 station?</p> <p>7 A. My father acquired the stations in 1998</p> <p>8 because he had a furniture business which he sold. And</p> <p>9 then in 2000 he bought the furniture company again, so</p> <p>10 we sold all of the stations to get back into the</p> <p>11 furniture business.</p> <p>12 Q. When your family bought the stations,</p> <p>13 including the Ponce Villa station from Esso, did you</p> <p>14 receive training on how to operate the station?</p> <p>15 A. I received a basic training on the</p> <p>16 operation of the store.</p> <p>17 Q. What do you mean by "basic"?</p> <p>18 A. It was merchandising the products, how the</p> <p>19 store should be organized. Things like that.</p> <p>20 Q. Did you or your father, or any of your</p> <p>21 family members, have experience in operating a gasoline</p> <p>22 station before you purchased the station or the Ponce</p> <p>23 Villa station?</p> <p>24 A. My brother used to have a garage in</p> <p>25 Caguas.</p>

4 (Pages 13 to 16)

Joanne de Thomas

787.501.3007

joannedethomas@yahoo.com

Berrios

<p style="text-align: right;">25</p> <p>1 Basically, those were the numbers on it.</p> <p>2 Q. What was-- whose responsibility to your</p> <p>3 understanding was it to clean up any gasoline that had</p> <p>4 spilled or leaked at the Esso stations, including Ponce</p> <p>5 Villa?</p> <p>6 MR. BOLLAR: Objection to form. Calls for</p> <p>7 a legal conclusion.</p> <p>8 THE DEPONENT: I understand that it was</p> <p>9 Esso's.</p> <p>10 BY MS. O'REILLY:</p> <p>11 Q. So is it fair to say that your</p> <p>12 responsibility, your family's responsibility, was to</p> <p>13 shut down the tanks, put-- if necessary, put down sand,</p> <p>14 and then call somebody, and then you had completed your</p> <p>15 responsibility to respond to a spill or a leak?</p> <p>16 MR. BOLLAR: Objection to form.</p> <p>17 THE DEPONENT: Yes, that's my</p> <p>18 understanding.</p> <p>19 BY MS. O'REILLY:</p> <p>20 Q. Did you ever see any deliveries of</p> <p>21 gasoline to the station?</p> <p>22 MR. BOLLAR: We're talking about Ponce,</p> <p>23 Counselor, or just generally?</p> <p>24 MS. O'REILLY: (To the interpreter) Does</p> <p>25 he understand my question?</p>	<p style="text-align: right;">27</p> <p>1 MR. BOLLAR: Objection to form.</p> <p>2 THE DEPONENT: No. In terms of dispensing</p> <p>3 the gasoline, the only person who could do that</p> <p>4 was the driver.</p> <p>5 BY MS. O'REILLY:</p> <p>6 Q. And who, to your understanding, hired the</p> <p>7 driver to deliver the gasoline to your stations,</p> <p>8 including Ponce Villa?</p> <p>9 MR. BOLLAR: Objection to form.</p> <p>10 THE DEPONENT: Esso.</p> <p>11 BY MS. O'REILLY:</p> <p>12 <u>Q. And were you required for the Esso</u></p> <p>13 <u>stations, including Ponce Villa, to buy all your</u></p> <p>14 <u>gasoline from Esso?</u></p> <p>15 <u>A. Yes. In terms of their brand, the only</u></p> <p>16 <u>thing that we could have was Esso.</u></p> <p>17 Q. Do you recall if someone from Esso would</p> <p>18 come out to your stations, including Ponce Villa, and</p> <p>19 test the gasoline to make sure it was Esso gasoline?</p> <p>20 A. I wasn't there at the Ponce station, but I</p> <p>21 was at the other stations when a van would arrive and</p> <p>22 they would take samples of the gasoline to also test</p> <p>23 and make sure that the premium gasoline was premium and</p> <p>24 the regular gasoline was regular and that they wouldn't</p> <p>25 be mixed.</p>
<p style="text-align: right;">26</p> <p>1 (The interpreter addresses the deponent in</p> <p>2 Spanish.)</p> <p>3 THE DEPONENT: Yes, I understood.</p> <p>4 I was never at Ponce to receive a gasoline</p> <p>5 delivery or be there while they were delivering.</p> <p>6 I was, though, at other stations.</p> <p>7 BY MS. O'REILLY:</p> <p>8 Q. And what did you observe when you saw</p> <p>9 gasoline deliveries occur at the station, at one of</p> <p>10 your stations?</p> <p>11 THE INTERPRETER: I'm sorry. Could you</p> <p>12 start again.</p> <p>13 MS. O'REILLY: Sure.</p> <p>14 BY MS. O'REILLY:</p> <p>15 Q. What did you observe or see when you</p> <p>16 watched a delivery of gasoline to one of your stations?</p> <p>17 A. Well, it was the normal procedure. No car</p> <p>18 could dispense gasoline. The truck would arrive, the</p> <p>19 truck area would be closed, and then the truck driver</p> <p>20 would discharge. First the gasoline would be measured</p> <p>21 and then the truck driver would dispense.</p> <p>22 Q. When gasoline was delivered to one of the</p> <p>23 stations, did you or your managers have any</p> <p>24 responsibility to assist the driver in delivering the</p> <p>25 gasoline?</p>	<p style="text-align: right;">28</p> <p>1 Q. Okay.</p> <p>2 Did your company, your family, put together any</p> <p>3 kind of a manual or written instructions for your</p> <p>4 employees on how to operate the stations?</p> <p>5 A. No.</p> <p>6 Q. If an employee, like a manager, had a</p> <p>7 question about how to operate the station or a question</p> <p>8 about safety, how would your family handle that?</p> <p>9 A. I understand that when they had a question</p> <p>10 on safety or something like that they would call</p> <p>11 Carlos, because they had a direct relationship with him</p> <p>12 because Carlos was their supervisor when the station</p> <p>13 was operated by Esso.</p> <p>14 Q. So you relied on Carlos to provide safety</p> <p>15 information to your employees for operation of the</p> <p>16 stations, including the Ponce Villa station.</p> <p>17 MR. BOLLAR: Objection to form.</p> <p>18 THE DEPONENT: Yes.</p> <p>19 BY MS. O'REILLY:</p> <p>20 Q. When you owned the stations, did you or</p> <p>21 your employees take inventory of the gasoline in the</p> <p>22 tanks?</p> <p>23 A. Yes.</p> <p>24 Q. And how was that done? Do you know?</p> <p>25 A. It was done on a daily basis. The report</p>

Berrios

<p style="text-align: right;">45</p> <p>1 Did Esso, anyone from Esso, tell you that a</p> <p>2 release of gasoline at your station could get into</p> <p>3 ground water that people drink?</p> <p>4 MR. BOLLAR: Objection to form.</p> <p>5 THE DEPONENT: I don't recall.</p> <p>6 BY MS. O'REILLY:</p> <p>7 Q. Did anyone tell you how much gasoline had</p> <p>8 to be released to cause contamination of the water?</p> <p>9 THE INTERPRETER: "Did anyone in Esso tell</p> <p>10 you"?</p> <p>11 MS. O'REILLY: Yes.</p> <p>12 THE DEPONENT: I don't recall. I don't</p> <p>13 recall.</p> <p>14 BY MS. O'REILLY:</p> <p>15 Q. Do you know if your employees were given</p> <p>16 instructions, other than inventory, how to check for</p> <p>17 leaks of gasoline at the Esso stations, including Ponce</p> <p>18 Villa?</p> <p>19 MR. BOLLAR: Objection to form.</p> <p>20 THE DEPONENT: I don't recall.</p> <p>21 BY MS. O'REILLY:</p> <p>22 Q. Okay. Did you ever learn about MTBE being</p> <p>23 in the gasoline that was provided to your stations by</p> <p>24 Esso?</p> <p>25 A. No.</p>	<p style="text-align: right;">47</p> <p>1 contamination at the stations?</p> <p>2 MR. BOLLAR: Objection to form.</p> <p>3 THE DEPONENT: Well, it was everyone's</p> <p>4 responsibility to keep an eye on contamination</p> <p>5 if anything happened.</p> <p>6 BY MS. O'REILLY:</p> <p>7 Q. Did you ever have any conversations with</p> <p>8 Carlos about contamination, soil contamination or</p> <p>9 ground water contamination, at the Ponce Villa station?</p> <p>10 A. No.</p> <p>11 Q. Okay.</p> <p>12 When your family sold the stations, were you</p> <p>13 required to do any cleanup of the stations, clean them</p> <p>14 up or change anything at them before you sold them?</p> <p>15 A. No.</p> <p>16 Q. Okay.</p> <p>17 When in 1998 did your family acquire the Ponce</p> <p>18 Villa station? Do you recall?</p> <p>19 A. I don't remember the exact date, but I</p> <p>20 understand that it was between April, May, June.</p> <p>21 Around that time.</p> <p>22 Q. Okay.</p> <p>23 MR. BOLLAR: Thank you.</p> <p>24 THE REPORTER: This would be two.</p> <p>25 (A document is marked for purposes of</p>
<p style="text-align: right;">46</p> <p>1 Q. <u>Were you ever told by Esso that even very</u></p> <p>2 <u>small releases of gasoline with MTBE could contaminate</u></p> <p>3 <u>the water that people drink?</u></p> <p>4 MR. BOLLAR: Objection to form.</p> <p>5 THE DEPONENT: No.</p> <p>6 BY MS. O'REILLY:</p> <p>7 Q. <u>Were you ever told that MTBE gasoline had</u></p> <p>8 <u>to be handled differently and more carefully than</u></p> <p>9 <u>gasoline without MTBE to prevent contamination?</u></p> <p>10 MR. BOLLAR: Objection to form.</p> <p>11 THE DEPONENT: No.</p> <p>12 BY MS. O'REILLY:</p> <p>13 Q. Okay. Do you recall if Esso took any soil</p> <p>14 samples or environmental samples from the Ponce Villa</p> <p>15 station during the time that your family owned or</p> <p>16 operated it?</p> <p>17 A. I don't recall.</p> <p>18 Q. Were you or anyone in your family provided</p> <p>19 with copies of environmental samples, soil or water,</p> <p>20 from the Ponce Villa station by Esso?</p> <p>21 MR. BOLLAR: Objection to form.</p> <p>22 THE DEPONENT: I don't recall.</p> <p>23 BY MS. O'REILLY:</p> <p>24 Q. Was there anyone in your family that was</p> <p>25 responsible for keeping an eye on the-- any</p>	<p style="text-align: right;">48</p> <p>1 identification as Deposition Exhibit</p> <p>2 No. 2.)</p> <p>3 MS. O'REILLY: For the record, I've marked</p> <p>4 as Exhibit--</p> <p>5 MS. TRELLES: For the record, same</p> <p>6 objection to Exhibit 2 and all questions</p> <p>7 regarding it.</p> <p>8 MS. O'REILLY: And for the record, I've</p> <p>9 only marked two documents. On the next break</p> <p>10 Counsel can certainly take the exhibits and</p> <p>11 review them. I'll give them plenty of time to</p> <p>12 do that.</p> <p>13 For the record, I've marked as Exhibit 2</p> <p>14 an October 9th, 1998, letter from Esso to Edwin</p> <p>15 Ortiz, Environmental Quality Board, regarding a</p> <p>16 gasoline spill at Esso service station calle</p> <p>17 Villa, Ponce. It's Bates stamped</p> <p>18 XOM-PR-00170268 through 0271, and I've given a</p> <p>19 certified translation in English, as well as the</p> <p>20 original Spanish version of the document.</p> <p>21 BY MS. O'REILLY:</p> <p>22 Q. And I'll just direct your attention when</p> <p>23 you're ready.</p> <p>24 Have you had a chance to review the document?</p> <p>25 "Yes"?</p>

Exhibit 3

Carlos Figueroa-Lebron

Page 1

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In Re: Methyl Tertiary *
Butyl Ether ("MTBE") * Master File No.
Products Liability * 1:00 - 1898
Litigation, * MDL 1358 (SAS): M21-88
*

This Document Relates to:

Commonwealth of Puerto
Rico, et al.

v.

Shell Oil Co., et al.

The videotaped deposition of:

CARLOS FIGUEROA-LEBRÓN,

was held at O'Neill & Borges, 250 Muñoz Rivera
Avenue, Suite 800, San Juan, Puerto Rico, on

Thursday, December 5, 2013, at 9:13 a.m.

Reported By: Derek L. Hoagland

California CSR No. 13445

Carlos Figueroa-Lebron

Page 10	Page 12
<p>1 represent the Commonwealth of Puerto Rico and the</p> <p>2 Environmental Quality Board. I am going to be</p> <p>3 asking you some questions today.</p> <p>4 And if at any time you would like to take a</p> <p>5 break, just let me know. My practice has been to</p> <p>6 take a break about every 60 minutes, and we will</p> <p>7 need to do that anyway to change the videotape.</p> <p>8 So -- and we will also break for lunch, but if at</p> <p>9 any time between those breaks you would like to</p> <p>10 take a break, just let me know and we can.</p> <p>11 Is that okay?</p> <p>12 A Yeah. Thank you.</p> <p>13 Q The only caveat to that that I would</p> <p>14 ask is that if I have asked you a question and it</p> <p>15 is still pending, I'd ask that you answer my</p> <p>16 question before we take a break.</p> <p>17 Is that okay?</p> <p>18 A Yeah.</p> <p>19 Q Where do you live, Mr. Figueroa?</p> <p>20 A I live in Manatí, Puerto Rico.</p> <p>21 Q Is that your only residence?</p> <p>22 A Yes.</p> <p>23 Q Have you ever been deposed before,</p> <p>24 sir?</p>	<p>1 basically for groundwater is the BTEX, the</p> <p>2 benzene -- mostly the benzene has been the main</p> <p>3 issue addressed in those cases.</p> <p>4 Q In either one of those cases, was MTBE</p> <p>5 an issue?</p> <p>6 A I don't recall that MTBE has been</p> <p>7 brought into those cases.</p> <p>8 Q And we're going to refer a fair bit</p> <p>9 today to MTBE. Do you -- are you aware of what</p> <p>10 MTBE is?</p> <p>11 A Not completely. I have a general</p> <p>12 knowledge, but I am not an expert in chemist, so I</p> <p>13 don't --</p> <p>14 Q What is your understanding of MTBE?</p> <p>15 A My understanding of MTBE is that it</p> <p>16 was a product that was added to gasoline at a</p> <p>17 certain point in history, and then it was</p> <p>18 discontinued later on.</p> <p>19 Q Do you have an understanding of why it</p> <p>20 was added to gasoline?</p> <p>21 A I have a general knowledge that after</p> <p>22 they discontinued of the lead in gasoline, MTBE</p> <p>23 came as a replacement, but I don't know the</p> <p>24 chemists behind or the rationale behind.</p>
Page 11	Page 13
<p>1 A Yes, sir, I have.</p> <p>2 Q How many times?</p> <p>3 A How many times? Probably about three</p> <p>4 times.</p> <p>5 Q Do you recall what type of litigation</p> <p>6 was involved in those depositions?</p> <p>7 A Work-related, all those cases, and</p> <p>8 basically related to a project that I was</p> <p>9 handling, or -- or a case related to -- to work.</p> <p>10 Q When you say, "work," was it primarily</p> <p>11 environmental-related litigation?</p> <p>12 A Not all the cases. One case was</p> <p>13 related to a construction project, and the other</p> <p>14 two cases were related to environmental-related</p> <p>15 work.</p> <p>16 Q So hopefully this process is not that</p> <p>17 foreign to you.</p> <p>18 A Uh-huh, no.</p> <p>19 Q Did either one of the environmental</p> <p>20 cases involve groundwater contamination?</p> <p>21 A Yes.</p> <p>22 Q What were the principal contaminants</p> <p>23 of concern in that litigation, if you recall?</p> <p>24 A I don't recall the specifics, but</p>	<p>1 Q In addition to being used as a lead</p> <p>2 replacement, are you also aware that it was used</p> <p>3 as an oxygenate in gasoline?</p> <p>4 A I am not that familiar with that term.</p> <p>5 Q And for the record, you're aware MTBE</p> <p>6 stands for methyl tertiary butyl ether? Are you</p> <p>7 aware of that, the full name?</p> <p>8 A No. No.</p> <p>9 <u>Q When did you first learn about MTBE?</u></p> <p>10 <u>A It was probably around 2000, or after</u></p> <p>11 <u>the year 2000.</u></p> <p>12 <u>Q And why does that year stick in your</u></p> <p>13 <u>mind?</u></p> <p>14 <u>A That was right after the merger of</u></p> <p>15 <u>Exxon and Mobil, and there was a new employee in</u></p> <p>16 <u>the group that came from the States and did have</u></p> <p>17 <u>previous experience dealing with a remediation</u></p> <p>18 <u>case with MTBE.</u></p> <p>19 Q Do you remember the name of that</p> <p>20 employee?</p> <p>21 A Yes.</p> <p>22 Q What was the name?</p> <p>23 A Meena Nainan.</p> <p>24 Q Last name?</p>

Carlos Figueroa-Lebron

Page 18	Page 20
<p>1 A I held that position probably 1998, 2 '97, only two years, a year and a half, something 3 around that time frame. 4 Q '97 to '98 time frame? 5 A For -- for the environmental group, 6 yes. 7 Q And who did you replace, sir? 8 A I replaced Ms. Ana Gloria Ramos. 9 Q And she was the environmental 10 supervisor up until approximately 1997? 11 A Around that time frame, yes. 12 Q <u>You mentioned that you first learned</u> 13 <u>of about MTBE from Ms. Nainan. How did you learn</u> 14 <u>about it?</u> 15 A <u>Just regular exchange of information.</u> 16 Q <u>Was it part of a presentation?</u> 17 A <u>It was more of a exchange of</u> 18 <u>information regarding previous experiences,</u> 19 <u>previous projects. She -- she came from</u> 20 <u>California, where she had a remediation case</u> 21 <u>dealing with MTBE, among other aspects.</u> 22 Q <u>It was more conversational between two</u> 23 <u>colleagues?</u> 24 A <u>Yes.</u></p>	<p>1 A Understood. 2 Q If you do not understand any question 3 that I ask, please just tell me so, and I will 4 either reask it or rephrase it. 5 A Okay. 6 Q If at any time you want to revise one 7 of your answers, please just let me know, and I'll 8 give you that opportunity. 9 A Okay. 10 Q I am going to show you some documents 11 today. If at any time you think of a document 12 that may help you to remember or testify regarding 13 an issue, please let me know, because I may have 14 it and I may be able to show it to you. 15 A Okay. 16 Q If at any time you want to speak with 17 your attorney, you may. Just I would ask that we 18 have the same understanding as we do regarding a 19 break, which is if I have a question pending, I 20 would ask that you answer my question first before 21 speaking with him. 22 Is that okay? 23 A Okay. 24 Q Are you taking any medication today</p>
Page 19	Page 21
<p>1 Q I know you have been deposed before, 2 Mr. Figueroa. I just want to back up and make 3 sure that you and I are on the same page regarding 4 a couple of things so that this goes as smoothly 5 and as quickly as possible today for us. 6 A Okay. 7 Q First, as we have been doing, I am 8 going to ask you questions, and if you would 9 answer my questions verbally so that the court 10 reporter can take them down and have a complete 11 record -- 12 A Okay. Yes. 13 Q -- I would appreciate it. We have a 14 tendency to anticipate what each other is going to 15 say and will oftentimes start to answer before my 16 question is finished, or similar sort of speaking 17 over one another, and if we could -- if you would 18 make an effort not to do that to me, I will make 19 an effort not to do that to you. 20 Is that okay? 21 A That's okay. 22 Q Because if we do speak over each 23 other, it is going to be very difficult for the 24 court reporter to take down a complete transcript.</p>	<p>1 that might prevent you from being able to fully 2 testify? 3 A No. 4 Q Have you had anything alcoholic to 5 drink in the last eight hours? 6 A No. 7 Q Are you suffering from any illness 8 that would prevent you from testifying today? 9 A I am diabetic, but I am taking my 10 medication. I should be okay, as long as we take 11 the breaks needed. 12 Q And as we talked about earlier, if at 13 any time you need to take a break for any reason, 14 just let me know and we can do so. 15 A Okay. 16 Q Is there any reason that you can think 17 of that you can't testify fully and completely 18 today? 19 A No. 20 Q I am going to show you, sir, what I 21 just marked as Figueroa Exhibit 1. And I have 22 copies for counsel. 23 (Exhibit No. 1 marked for 24 identification.)</p>

Carlos Figueroa-Lebron

Page 38	Page 40
<p>1 October 2008 -- actually, the way that I want to</p> <p>2 clarify this is I was more like a project</p> <p>3 engineer, I was managing projects.</p> <p>4 So when I took the role of supervisor in</p> <p>5 2006, I continued with my project manager roles; I</p> <p>6 just got the additional assignment to be the</p> <p>7 supervisor of the group, and I was supervisor</p> <p>8 until -- basically for the local group, until</p> <p>9 October 2008. That's when the company was sold to</p> <p>10 Total.</p> <p>11 I stayed with the company until I left in</p> <p>12 2011, but I mean, there was no longer a group, so</p> <p>13 I was not supervising anybody. I was more</p> <p>14 managing. I just continued my role as a project</p> <p>15 manager until 2000 -- from 2008 through 2011.</p> <p>16 Q Then what types of projects were you</p> <p>17 managing after the sale to Total in October of</p> <p>18 2008?</p> <p>19 A Basically, it was environmental</p> <p>20 projects or remediation projects or what we used</p> <p>21 to call retained liabilities project sites that</p> <p>22 were no longer Esso's property, but they were</p> <p>23 divested or disengaged, and Esso retained the</p> <p>24 responsibility to address the environmental</p>	<p>1 So an opportunity presented, and I</p> <p>2 evaluated and took the decision to leave the</p> <p>3 company to pursue personal interests on -- on the</p> <p>4 behalf of the best interest for me and for my</p> <p>5 family.</p> <p>6 Q Is it fair to say that, if I</p> <p>7 understand you, Esso Puerto Rico was -- was</p> <p>8 wrapping up the projects that you managed, and</p> <p>9 there was a -- there was a visible backstop to</p> <p>10 when those projects would end?</p> <p>11 MR. CONLEY: Objection to form.</p> <p>12 Mischaracterizes.</p> <p>13 THE DEPONENT: Can you clarify?</p> <p>14 Because I didn't understand the</p> <p>15 last statement.</p> <p>16 BY MR. GILMOUR:</p> <p>17 Q Yes, sir, I am just trying to</p> <p>18 understand. You -- it is my understanding that</p> <p>19 Esso Puerto Rico divested its retail -- the</p> <p>20 majority of its retail service stations in 2008;</p> <p>21 is that correct?</p> <p>22 A Esso Puerto Rico divested all its</p> <p>23 operations, retail, industrial, aviation</p> <p>24 terminals, all the operations were divested in</p>
Page 39	Page 41
<p>1 condition of the site.</p> <p>2 Q During the time frame from October</p> <p>3 2008 to November of 2011, were you still an</p> <p>4 employee of Esso Puerto Rico?</p> <p>5 A I was an employee until September</p> <p>6 2011.</p> <p>7 Q And I am just trying to clarify --</p> <p>8 A Right.</p> <p>9 Q -- whether you were acting as an</p> <p>10 independent contractor.</p> <p>11 A No.</p> <p>12 Q What happened in September 2011?</p> <p>13 A In September 2000 -- well, it was in</p> <p>14 August 2011, I presented my resignation letter,</p> <p>15 and I went to work for another petroleum company</p> <p>16 in October 2011.</p> <p>17 Q What caused you to retire from -- or</p> <p>18 to resign, rather, from Esso Puerto Rico?</p> <p>19 A Well, Esso Puerto Rico was a company</p> <p>20 that sold all its assets in 2008, and my main task</p> <p>21 was to complete and close projects, so I</p> <p>22 understood that there was going to be a very short</p> <p>23 time frame with the company, because after that,</p> <p>24 most likely I would be without a job.</p>	<p>1 2008.</p> <p>2 Q So it is my understanding that Esso</p> <p>3 Puerto Rico didn't have ongoing operations after</p> <p>4 that date; is that correct?</p> <p>5 A That's correct.</p> <p>6 Q And so you had -- but you still had</p> <p>7 ongoing projects that you were managing, the --</p> <p>8 the retained liability projects?</p> <p>9 A That's correct.</p> <p>10 Q At some point, those projects were all</p> <p>11 going to be complete, correct?</p> <p>12 A That's the intention, correct.</p> <p>13 Q And so you foresaw that that was --</p> <p>14 your projects were going to end, and so you sought</p> <p>15 alternative employment; is that correct?</p> <p>16 A That's correct.</p> <p>17 Q And, again, I am just trying to make</p> <p>18 sure that you and I aren't talking past one</p> <p>19 another and I understand everything that you're</p> <p>20 saying.</p> <p>21 <u>We spent some time discussing your work</u></p> <p>22 <u>history, and I want to make sure that we have</u></p> <p>23 <u>covered all of the positions that you held while</u></p> <p>24 <u>you were at Esso Puerto Rico from, my</u></p>

11 (Pages 38 to 41)

Carlos Figueroa-Lebron

Page 42	Page 44
<p>1 <u>understanding is February of 1996 until October</u> 2 <u>2011; is that correct?</u> 3 <u>A Yeah, that was -- September 2011.</u> 4 Q Sorry, September 2011. 5 A Yes. 6 Q Another housekeeping matter, 7 Mr. Figueroa. Some of the documents I am going to 8 show you today are in English and some of the 9 documents I am going to show you today are in 10 Spanish. It is my understanding that you are 11 fluent in Spanish; is that correct? 12 A Yes. 13 Q It is also my understanding that you 14 are fluent in English; is that correct? 15 A Yes. 16 Q And so you won't have any difficulty 17 reading a Spanish document if I give it to you? 18 A No. 19 Q And the same for if I give you a 20 document in English, you will be able to read and 21 understand it? 22 A Yes, and if I have a question, I will 23 ask a question, so... 24 Q Perfect. We're going to be talking</p>	<p>1 there was any activity, I most likely coordinated 2 or assisted the engineers that were coordinating 3 that work. 4 Some of those sites may have their work 5 completed prior to that time, and some of them may 6 have a portion of the work to be completed during 7 that time frame. But I don't recall specifically 8 working on those two cases doing the compliance. 9 I mean, again, being the supervisor, I 10 didn't manage the specific project, but more the 11 overall program in terms of logistics, budget, 12 resources, communications with the agency. 13 Q Did you have individuals that worked 14 for you that would have been responsible for 15 implementation of the work necessary to comply 16 with the regs? 17 A Yes. 18 Q Okay. 19 A There was a group of about -- I think 20 I -- I was counting it was about ten people when 21 you added the retail, engineering and the 22 environmental. It was about ten people that 23 day -- but basically in order to get the 24 compliance in place, it was like a team of one</p>
Page 43	Page 45
<p>1 today about two particular sites, and I want to 2 make sure that you and I are on the same page when 3 we're referring to them. One is referred to in 4 the documentation I have seen as CO-242 in Cayey. 5 Are you familiar with that site, sir? 6 A Yes. 7 Q And the other site is CO-364, which is 8 in Ponce. Are you familiar with that site, sir? 9 A Yes. 10 Q So if I refer to either of those, you 11 will understand which site we are talking about? 12 A Yes. 13 Q It's my understanding that both of 14 those stations were former Esso Puerto Rico retail 15 gas stations; is that correct? 16 A That's correct. 17 Q Would those two sites have fallen 18 within the scope of your work in the 1997 and '98 19 time frame, when you were working to complete 20 compliance with EPA regulations? 21 A The compliance of EPA regulation, 22 basically we look at the whole network. Being the 23 supervisor, I didn't really manage any specific 24 project, but I oversee the whole program, so if</p>	<p>1 engineer for retail and one for environmental. So 2 it was a team effort for almost every project. 3 So it was not only getting the physical 4 piece done, but also getting the environmental 5 related work that -- that -- for example, a tank 6 replacement project also required tank excavation 7 assessment, and it would require soil disposal. 8 So it was a team effort. One engineer will 9 handle the civil work, and the other will handle 10 the consulting -- environmental consultant and 11 waste disposal, so it was a team effort. Also 12 there were two different contractors in most 13 cases. 14 Q Do you recall who those contractors 15 were? 16 A Back then in the 1997-'98, probably 17 there were several contractors. 18 Q And do you remember the names of any 19 of them? 20 A Yes, in the engineering side, there 21 were contractors such as Mike Pizarro, Roque 22 Schmidt. Those were the two main maintenance 23 contractors, but they also conducted tank work. I 24 mean, installations, removals, installation of</p>

Carlos Figueroa-Lebron

Page 62	Page 64
<p>1 normally are not from that region, and you take</p> <p>2 advantage and provide the course right there.</p> <p>3 Q And you had previously mentioned The</p> <p>4 Woodlands, Texas. Were some of these courses</p> <p>5 taken in The Woodlands, Texas?</p> <p>6 A The one at The Woodlands was with</p> <p>7 Exxon, and that was just the UST installation</p> <p>8 course.</p> <p>9 Q That was the only course that you have</p> <p>10 taken in The Woodlands?</p> <p>11 A That's the only course I can remember</p> <p>12 in The Woodlands. I think I visited The Woodlands</p> <p>13 area because that's where there are some Exxon</p> <p>14 offices, but for courses, that's the one that I</p> <p>15 recall in that area.</p> <p>16 Q Do you recall any other of these</p> <p>17 training courses that we have been talking about</p> <p>18 that were offered by Exxon or ExxonMobil?</p> <p>19 MR. CONLEY: Objection to form.</p> <p>20 Vague.</p> <p>21 THE DEPONENT: Yeah, it's a --</p> <p>22 there were several. I don't recall</p> <p>23 the exact number. Like I</p> <p>24 mentioned, there were some that,</p>	<p>1 others also related to safety</p> <p>2 aspects to this work environment.</p> <p>3 We have quite a few on that -- on</p> <p>4 that section.</p> <p>5 So safety was a big part of</p> <p>6 ExxonMobil and Esso Puerto Rico's</p> <p>7 role, so -- so that was also</p> <p>8 another big item.</p> <p>9 But on remediation, I don't</p> <p>10 recall the -- the exact number or</p> <p>11 the exact title. I know that there</p> <p>12 were several during the -- how much</p> <p>13 was it? Ten years, eleven years</p> <p>14 that I was with that group. We</p> <p>15 have several.</p> <p>16 That was not something that I</p> <p>17 keep a record of it, so I</p> <p>18 couldn't -- that's something that I</p> <p>19 didn't went back and check, so</p> <p>20 sorry, I can't give you the exact</p> <p>21 number or titles.</p> <p>22 BY MR. GILMOUR:</p> <p>23 Q That's okay. All I am trying to do is</p> <p>24 ask whether you recall any locations in the United</p>
Page 63	Page 65
<p>1 for example, the resource will</p> <p>2 visit Esso Puerto Rico and offer</p> <p>3 the course to the local group, and</p> <p>4 others in which we will go to a</p> <p>5 meeting, a regional meeting, or a</p> <p>6 meeting where we will have --</p> <p>7 probably attending for another</p> <p>8 function, but we will take</p> <p>9 advantage that we are nearby an</p> <p>10 office, and we will take a one-day</p> <p>11 session or half-day session on a</p> <p>12 specific topic.</p> <p>13 And there were several. I</p> <p>14 mean, we have meetings every year.</p> <p>15 Every year, they will have, like, a</p> <p>16 regional meeting that we all will</p> <p>17 go. Not always at the same</p> <p>18 location. I mean, they may change</p> <p>19 location depending on the -- the</p> <p>20 purpose of the meeting and who was</p> <p>21 offering the meeting.</p> <p>22 But there were several, like I</p> <p>23 mentioned, natural attenuation or</p> <p>24 the Remediation 101. There were</p>	<p>1 States that you went to at an Exxon or ExxonMobil</p> <p>2 facility, other than The Woodlands, Texas.</p> <p>3 A The location, I remember going to the</p> <p>4 Fairfax office for ExxonMobil.</p> <p>5 Q And that's Fairfax, Virginia?</p> <p>6 A Fairfax, Virginia, yeah. There may</p> <p>7 have been others at Coral Gables, Miami, Florida.</p> <p>8 I remember being in Huntington Beach, California.</p> <p>9 And I think one of the very last ones was in the</p> <p>10 New York area.</p> <p>11 Q Was there ever a time that you</p> <p>12 received training related to MTBE while at --</p> <p>13 while employed by Esso Puerto Rico?</p> <p>14 A While employed by Esso Puerto Rico, if</p> <p>15 I ever received training on MTBE?</p> <p>16 Q Better way for me to ask --</p> <p>17 A Yeah.</p> <p>18 Q -- the question.</p> <p>19 <u>Prior to September 2011, did you receive</u></p> <p>20 <u>any training related to MTBE?</u></p> <p>21 <u>MR. CONLEY: Objection. Vague.</u></p> <p>22 <u>THE DEPONENT: I don't recall a</u></p> <p>23 <u>training on that specific matter,</u></p> <p>24 <u>no.</u></p>

17 (Pages 62 to 65)

Carlos Figueroa-Lebron

Page 66	Page 68
<p>1 <u>BY MR. GILMOUR:</u></p> <p>2 <u>Q Do you recall MTBE being addressed in</u></p> <p>3 <u>any of the training that you attended prior to</u></p> <p>4 <u>September 2011?</u></p> <p>5 <u>A It most likely, or probably, could</u></p> <p>6 <u>have been mentioned at some of these remediation</u></p> <p>7 <u>courses, but just the same way as benzine is</u></p> <p>8 <u>mentioned or other components of gasoline or</u></p> <p>9 <u>diesel are also mentioned, but not specific on</u></p> <p>10 <u>that aspect. But it usually doesn't point out</u></p> <p>11 <u>from -- on the general training sessions.</u></p> <p>12 Q I would like to show you a document.</p> <p>13 It's attached to a -- as an exhibit to a</p> <p>14 deposition exhibit, or it's attached to a -- it's</p> <p>15 attached as an exhibit to a deposition notice,</p> <p>16 rather, and the notice does not apply to you. I</p> <p>17 am marking this as Figueroa 3.</p> <p>18 (Exhibit No. 3 marked for</p> <p>19 identification.)</p> <p>20 BY MR. GILMOUR:</p> <p>21 Q It has also been previously marked as</p> <p>22 Muñoz Exhibit 2. I am going to turn to the</p> <p>23 page -- first page of Exhibit A to the document.</p> <p>24 Copy for counsel so you can see. And</p>	<p>1 A I'm sorry, I just answered that I</p> <p>2 don't remember the document, so the assistance</p> <p>3 (sic) of the document.</p> <p>4 Q I was making a distinction. I heard</p> <p>5 you say that you had not read the document. I</p> <p>6 just wanted to --</p> <p>7 A Right.</p> <p>8 Q I was asking if you were aware that it</p> <p>9 existed.</p> <p>10 MR. CONLEY: Objection to the</p> <p>11 extent it calls for a privileged</p> <p>12 communication, so don't answer to</p> <p>13 the extent it's outside work</p> <p>14 communications.</p> <p>15 THE DEPONENT: Okay.</p> <p>16 BY MR. GILMOUR:</p> <p>17 Q And to be clear, I am not asking about</p> <p>18 anything done specifically in preparation for your</p> <p>19 deposition here today. I am talking about your</p> <p>20 time prior to September 2011.</p> <p>21 A Right. So in order to address the</p> <p>22 question, no, I haven't. I don't remember seeing</p> <p>23 that document before.</p> <p>24 Q In your work prior to -- and if we</p>
Page 67	Page 69
<p>1 Exhibit A attached to Figueroa Exhibit 3 is a</p> <p>2 relatively lengthy document and I don't need you</p> <p>3 to read it all. I just want to -- it is entitled</p> <p>4 "MTBE Release Source Identification at Marketing</p> <p>5 Sites, a Study Conducted for EUSA ESD by Exxon</p> <p>6 Research and Engineering Company," dated</p> <p>7 March 30th, 1999.</p> <p>8 Have you ever seen this document before,</p> <p>9 sir?</p> <p>10 A March 1999, I was with the company. I</p> <p>11 don't recall the document.</p> <p>12 Q You don't recall ever reviewing this</p> <p>13 document?</p> <p>14 A Reviewing the document, no. We had</p> <p>15 a -- like a library at the office, and there were</p> <p>16 several documents on different branding and</p> <p>17 standards, but I don't -- I don't recall seeing</p> <p>18 this one specifically.</p> <p>19 Q So you don't remember ever reading</p> <p>20 this document?</p> <p>21 A I don't remember.</p> <p>22 Q Was the existence of this document</p> <p>23 ever brought to your attention that you can</p> <p>24 recall?</p>	<p>1 could have an understanding, all of the questions</p> <p>2 that I am asking you apply to your time at Esso</p> <p>3 Puerto Rico prior to September 2011, unless I</p> <p>4 otherwise tell you.</p> <p>5 Can we have that understanding so that we</p> <p>6 don't get into the situations where you may have</p> <p>7 spoken to counsel about issues in preparation for</p> <p>8 today?</p> <p>9 A Okay. Understood.</p> <p>10 Q During your time at Esso Puerto Rico,</p> <p>11 was there ever a time that MTBE became a focus of</p> <p>12 your work?</p> <p>13 MR. CONLEY: Objection. Vague.</p> <p>14 THE DEPONENT: Can you clarify</p> <p>15 or -- focus of my work?</p> <p>16 BY MR. GILMOUR:</p> <p>17 <u>Q We have been talking today about your</u></p> <p>18 <u>understanding of MTBE. And it started, as I</u></p> <p>19 <u>understand it, in a conversational nature between</u></p> <p>20 <u>colleagues back in 2000.</u></p> <p>21 <u>And so what I am trying to get at, sir, was</u></p> <p>22 <u>there a time that MTBE specifically became part of</u></p> <p>23 <u>your work?</u></p> <p>24 <u>MR. CONLEY: Objection. Vague.</u></p>

Carlos Figueroa-Lebron

Page 70	Page 72
<p>1 <u>THE DEPONENT: Not that I</u> 2 <u>recall, no.</u> 3 BY MR. GILMOUR: 4 Q When you were the retail environmental 5 supervisor, do you recall having instances where 6 you were supervising work related to MTBE? 7 MR. CONLEY: Objection. Vague. 8 THE DEPONENT: No. 9 BY MR. GILMOUR: 10 Q And, again, I am going to get the 11 supervisory titles mixed up, but during your time 12 at Esso Puerto Rico, was there a time that you 13 oversaw work being done -- let's start 14 specifically to identify MTBE contamination? 15 MR. CONLEY: Objection. Vague. 16 THE DEPONENT: During my time 17 at Esso Puerto Rico, I don't 18 remember that MTBE was a parameter 19 that was requested to be sampled. 20 Esso did work on the setup tank 21 guidelines, basically, with EQB. 22 We have a generic sampling plan, 23 and MTBE was not part of that plan. 24 That plan was approved by the</p>	<p>1 regulation. 2 BY MR. GILMOUR: 3 Q And which agency was responsible for 4 the local UST regulation? 5 A The Puerto Rico Environmental Quality 6 Board. 7 Q So the generic sampling plan was 8 developed based upon the existing UST regulations? 9 A That's correct. 10 Q Do you know when the generic sampling 11 plan was developed? 12 A The document was developed around 1996 13 and submitted to the agency for approval. My 14 recollection is that it was endorsed or approved 15 by EQB in 1997. 16 So during my time at Esso, that was, like, 17 the document that we used as a guiding document 18 because it was the endorsed document by EQB. 19 So the answer to your question would be 20 1997, that's when we got the endorsement from the 21 agency. 22 Q Has that generic sampling plan -- or 23 was that generic sampling plan amended during your 24 time at Esso Puerto Rico?</p>
Page 71	Page 73
<p>1 Environmental Quality Board, and 2 basically covers the requirements 3 of the UST regulation, so we follow 4 basically that. And MTBE was not 5 included. 6 So to answer your question, no, 7 we did not -- although there may 8 have been instances in which the 9 agency has requested to do MTBE 10 sampling, I don't recall a case in 11 which I personally handled, or I 12 don't recall the company did have 13 cases in which MTBE was 14 specifically requested by the 15 agency. 16 BY MR. GILMOUR: 17 Q You mentioned that Esso Puerto Rico 18 had a generic sampling plan, and it's my 19 understanding that you said it was developed based 20 upon the EPA regs; is that correct? 21 MR. CONLEY: Objection. 22 Mischaracterizes. 23 THE DEPONENT: It was really 24 developed to address the local UST</p>	<p>1 A Around 2007, during regular business 2 meetings with EQB personnel, we got a verbal 3 request to update it, because it has already been 4 ten years. So the document was revised and 5 resubmitted to the agency around 2007. 6 I do not recall receiving it back from the 7 agency, either with comments or approvals, so we 8 still -- during my time with the company, I still 9 continue working under the 1997 document. 10 Q And if I understand you, then, the 11 sampling during your time at Esso Puerto Rico was 12 for substances that were identified in the local 13 regulation -- UST regulations applicable in 1996; 14 is that correct? 15 MR. CONLEY: Objection. 16 Mischaracterizes. 17 THE DEPONENT: The local UST 18 regulation, my understanding, is 19 dated 1990, and as far as I am 20 concerned, they still -- they -- is 21 still the active one or the 22 applicable one. 23 I do remember an effort at one 24 point to have that revised, but as</p>

Ricardo L. Casas-Lomba

Page 1

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

-----x
IN RE: METHYL TERTIARY MASTER FILE
BUTYL ETHER ("MTBE") NO. 1:00-1898
LIABILITY LITIGATION M21-88
PRODUCTS MDL 1358 (SAS)
-----x

COMMONWEALTH OF PUERTO
RICO, ET AL.,
 Plaintiffs,

vs.

CASE NO.
07-CIV-10470
SHELL OIL CO., ET AL.,, (SAS)

Defendants.
-----x

The video deposition of:

RICARDO L. CASAS-LOMBA,

Was held at the law offices of O'Neill & Borges,
250 Muñoz Rivera Avenue, 800 American International
Plaza, San Juan, Puerto Rico, on Tuesday, May 6,
2014, at 10:07 a.m.

Reported by: Marty E. McArver, CA-CSR, GA-CCR, FPR

GOLKOW TECHNOLOGIES, INC.
877.370.3377 ph|917.591.5672 fax
deps@golkow.com

Ricardo L. Casas-Lomba

Page 34	Page 36
<p>1 Esso in Puerto Rico, you had no personal knowledge</p> <p>2 as to whether or not that gasoline contained MTBE?</p> <p>3 Correct?</p> <p>4 A. I don't recall any instances where I was</p> <p>5 informed or not that it did or did not have MTBE.</p> <p>6 Q. When you say MTBE was not a consideration,</p> <p>7 can you explain what you mean by that?</p> <p>8 A. What I mean is that normally a company</p> <p>9 has a standard for, for example, 93-octane gasoline or</p> <p>10 87-octane gasoline. And that has several items that</p> <p>11 our product experts say, hey, this is -- you know, these</p> <p>12 are the different tests that need to be performed on</p> <p>13 that fuel to be able to be sold and branded under the</p> <p>14 Esso flag.</p> <p>15 So those tests are -- you know, have various</p> <p>16 levels, you know, color or density or octane and others,</p> <p>17 and so it's -- As long as the product was meeting those</p> <p>18 specs, I was not, you know, informed that there was an</p> <p>19 issue with the product. I mean, it just meets the spec</p> <p>20 and it's marketed.</p> <p>21 Q. Okay. So nobody was looking at the MTBE</p> <p>22 content or lack of MTBE content in gasoline at that</p> <p>23 time?</p> <p>24 MR. BOLLAR: Objection to form.</p>	<p>1 A. Well, as I have learned more recently, it</p> <p>2 was part of the certificate of analysis. Whether it</p> <p>3 was tracked or not, I don't know. It may be on the</p> <p>4 certificate.</p> <p>5 Q. In preparation for your deposition today,</p> <p>6 did you have conversations with any of the technical</p> <p>7 people that you referred to who were responsible for</p> <p>8 reviewing the quality of gasoline that Esso Puerto</p> <p>9 Rico distributed?</p> <p>10 A. No, I did not.</p> <p>11 Q. Do you recall the names of those</p> <p>12 individuals?</p> <p>13 A. At that time, it was -- must have been</p> <p>14 Francisco Guerra.</p> <p>15 Q. Rivera?</p> <p>16 A. Guerra.</p> <p>17 Q. Guerra.</p> <p>18 A. Guerra.</p> <p>19 Q. Anyone else?</p> <p>20 A. No. That was about it.</p> <p>21 Q. I assume he's a man. Did you have any</p> <p>22 conversations with Mr. Guerra about MTBE?</p> <p>23 A. No.</p> <p>24 Q. Prior to testifying in this case, when did</p>
Page 35	Page 37
<p>1 Mischaracterizes testimony.</p> <p>2 THE DEPONENT: I was personally not</p> <p>3 informed. We had, you know, technical</p> <p>4 people that were reviewing the product</p> <p>5 being purchased.</p> <p>6 BY MS. O'REILLY:</p> <p>7 Q. Do you know if they were reviewing the</p> <p>8 product for content of MTBE?</p> <p>9 A. I don't know.</p> <p>10 Q. Were there any reports that you saw</p> <p>11 during the time period when you were working for</p> <p>12 Esso that discussed whether or not MTBE was present</p> <p>13 in the gasoline distributed by Esso in Puerto Rico?</p> <p>14 A. I don't recall any reports, no.</p> <p>15 Q. Were there any summaries prepared, while you</p> <p>16 were involved with Esso, concerning the amount of MTBE</p> <p>17 present in gasoline distributed by Esso Puerto Rico?</p> <p>18 A. I don't recall any summaries.</p> <p>19 Q. Was that a statistic, to your understanding,</p> <p>20 that Esso Puerto Rico tracked for gasoline it</p> <p>21 distributed in Puerto Rico?</p> <p>22 A. I'm sorry. Are you asking whether Esso was</p> <p>23 tracking what --</p> <p>24 Q. MTBE content of its gasoline.</p>	<p>1 <u>you first become aware that MTBE may have been present</u></p> <p>2 <u>in gasoline distributed by Esso Puerto Rico?</u></p> <p>3 <u>A. I mean, I was -- I've been made aware,</u></p> <p>4 <u>through this matter, of MTBE.</u></p> <p>5 <u>Before that, I wasn't really involved in that.</u></p> <p>6 <u>Q. Prior to any of your other depositions,</u></p> <p>7 <u>have you ever talked to Mr. Guerra about MTBE content</u></p> <p>8 <u>of gasoline Esso distributed in Puerto Rico?</u></p> <p>9 <u>A. No.</u></p> <p>10 Q. Is there anyone other than Mr. Guerra that</p> <p>11 you believe would potentially have known about the</p> <p>12 content of MTBE gasoline being distributed by Esso</p> <p>13 at the time Esso was selling gasoline in Puerto Rico?</p> <p>14 A. I don't recall anybody else that would</p> <p>15 have been in that situation.</p> <p>16 Q. Going back to Exhibit 2 --</p> <p>17 A. Yes.</p> <p>18 Q. -- paragraph 5, so have we now covered all</p> <p>19 of the documents or bases on which you are basing your</p> <p>20 testimony concerning the presence or absence of MTBE</p> <p>21 gasoline distributed by Esso Puerto Rico?</p> <p>22 MR. BOLLAR: Objection. Form.</p> <p>23 THE DEPONENT: Have we covered --</p> <p>24 Sorry. Can you repeat the</p>

Ricardo L. Casas-Lomba

Page 46	Page 48
<p>1 But after CORCO, we had -- we were supplied by</p> <p>2 Phillips Puerto Rico Core and we were supplied by Hess</p> <p>3 Oil in the Virgin Islands.</p> <p>4 Q. And Phillips Puerto Rico Core was on island,</p> <p>5 correct?</p> <p>6 A. That was on island. (Deponent moves head</p> <p>7 up and down.)</p> <p>8 Q. And Hess HOVENSA was off island, correct?</p> <p>9 A. That's correct, coming from St. Croix.</p> <p>10 Q. Any other suppliers, regular suppliers,</p> <p>11 that you recall after CORCO besides Phillips PR Core</p> <p>12 and Hess?</p> <p>13 A. Not primary suppliers. We might have, you</p> <p>14 know, for some periods bought shipments from others;</p> <p>15 but I guess you're -- What I'm thinking you want is</p> <p>16 like primary suppliers. Those are --</p> <p>17 Q. And do you have an opinion about the</p> <p>18 presence or absence of MTBE in gasoline supplied to</p> <p>19 Esso Puerto Rico by Phillips Core?</p> <p>20 A. My understanding is the product produced by</p> <p>21 Phillips may have had MTBE some of the time and may not</p> <p>22 have had MTBE at other points in time.</p> <p>23 Q. And what is that opinion based on?</p> <p>24 A. For my prior depositions, we looked at</p>	<p>1 A. Can you repeat the question, please?</p> <p>2 Q. Sure, sure.</p> <p>3 <u>My question is: At the time you were working</u></p> <p>4 <u>for Esso Puerto Rico, were you aware that Phillips</u></p> <p>5 <u>Core provided gasoline containing MTBE to Esso?</u></p> <p>6 <u>MR. THOMPSON: Same objection.</u></p> <p>7 <u>THE DEPONENT: I was not aware</u></p> <p>8 <u>then.</u></p> <p>9 BY MS. O'REILLY:</p> <p>10 Q. And in what time periods did the gasoline</p> <p>11 provided by Phillips Core to Esso Puerto Rico contain</p> <p>12 MTBE, to your understanding?</p> <p>13 A. I don't, you know, have specific knowledge</p> <p>14 of the dates when and when MTBE might have been present</p> <p>15 or not.</p> <p>16 Q. You said specific dates. Was MTBE --</p> <p>17 What was your understanding of when MTBE was</p> <p>18 present from Phillips Core?</p> <p>19 A. At that time I was not involved in looking</p> <p>20 at whether MTBE was or was not present. So I just have</p> <p>21 no basis to -- you know, from that time period.</p> <p>22 Q. Okay. And for purposes of your testimony</p> <p>23 today, do you have an opinion on when, what time</p> <p>24 periods, MTBE was present in gasoline that was provided</p>
Page 47	Page 49
<p>1 some -- I think some certificates of analysis from</p> <p>2 Phillips.</p> <p>3 Q. Any other documents that you're relying</p> <p>4 upon for that opinion?</p> <p>5 A. No. I mean, those are the principal</p> <p>6 documents that --</p> <p>7 Q. At the time you worked for Esso Puerto Rico,</p> <p>8 did you ever meet with anyone from Phillips Core?</p> <p>9 A. I mean, we might have met occasionally with</p> <p>10 folks from Phillips Core.</p> <p>11 Q. Did you discuss MTBE with them?</p> <p>12 A. No, I did not.</p> <p>13 Q. At the time you were working for Esso Puerto</p> <p>14 Rico, were you aware that Phillips Core was supplying</p> <p>15 gasoline that contained MTBE to Esso?</p> <p>16 MR. THOMPSON: Objection. Form.</p> <p>17 THE REPORTER: And who made that</p> <p>18 objection?</p> <p>19 MS. BURNS: Objection.</p> <p>20 MR. THOMPSON: Blayne Thompson.</p> <p>21 THE DEPONENT: I'm not aware.</p> <p>22 BY MS. O'REILLY:</p> <p>23 Q. Well, I'm asking, were you aware at the</p> <p>24 time?</p>	<p>1 by Phillips Core to Esso Puerto Rico?</p> <p>2 A. From the information I've seen and</p> <p>3 documents, it would appear that in the time period</p> <p>4 that Esso was being supplied by Phillips, there was --</p> <p>5 there were at least some certificates that showed some</p> <p>6 presence. How much or how long that period was, I</p> <p>7 cannot ascertain that.</p> <p>8 Q. Okay. Did you see certificates from</p> <p>9 Phillips Core for gasoline provided to Esso that did</p> <p>10 not contain MTBE?</p> <p>11 A. I seem to recall we had some that did not</p> <p>12 have MTBE.</p> <p>13 Q. Were those for a different time period?</p> <p>14 A. No, the same time period. It was just --</p> <p>15 I just think it was different dates, but I have to go</p> <p>16 back and look at the certificates.</p> <p>17 Q. Okay. And what time periods did Phillips</p> <p>18 Core overall, to your understanding, provide gasoline</p> <p>19 to Esso Puerto Rico?</p> <p>20 A. My recollection is that Phillips was</p> <p>21 supplying some of our gasoline between the 1982 and</p> <p>22 1992 time period.</p> <p>23 Q. Was that for both north and south or</p> <p>24 primarily for south?</p>

Ricardo L. Casas-Lomba

Page 54	Page 56
<p>1 moves head up and down.)</p> <p>2 Q. Did Hess supply both 87 and 93 octane to</p> <p>3 Esso Puerto Rico?</p> <p>4 A. I think over time they supplied both, both</p> <p>5 grades, 87 and 93.</p> <p>6 Q. <u>Do you recall at the time you were with Esso</u></p> <p>7 <u>Puerto Rico whether or not you were aware that gasoline</u></p> <p>8 <u>supplied by Hess had de minimis amounts of MTBE?</u></p> <p>9 A. <u>At that time I don't recall that</u></p> <p>10 <u>information.</u></p> <p>11 Q. Okay. And is it your understanding that</p> <p>12 Hess was able to manufacture a 93-octane gasoline</p> <p>13 without or with only de minimis amounts of MTBE?</p> <p>14 A. Sorry. Can you repeat the question?</p> <p>15 Q. Sure.</p> <p>16 Is it your understanding that Hess was able to</p> <p>17 supply Esso Puerto Rico with 93-octane gasoline that</p> <p>18 either only had de minimis or no MTBE in it?</p> <p>19 A. My understanding at the time was that Hess</p> <p>20 could supply 93-octane gasoline.</p> <p>21 More recently from the records I reviewed, it</p> <p>22 shows that it had none or de minimis amounts of MTBE,</p> <p>23 for the most part.</p> <p>24 Q. Do you have an understanding of what Hess</p>	<p>1 time period while Hess was getting ready or we were</p> <p>2 getting -- we might have purchased a shipment from</p> <p>3 somebody that we might not have purchased again ever</p> <p>4 or -- That's what I mean by a spot purchase.</p> <p>5 Q. Okay. And do you know who the spot</p> <p>6 purchases came from that Esso Puerto Rico purchased</p> <p>7 over the years?</p> <p>8 A. I mean, as I think I responded, the trader</p> <p>9 would be the one to secure that supply. So, I mean,</p> <p>10 I'm sure Goldberg can tell you.</p> <p>11 And obviously if we look at the table, it shows</p> <p>12 the supplier. I just don't really have those memorized.</p> <p>13 Q. And do you have an opinion as to the</p> <p>14 presence or absence of MTBE in gasoline supplied through</p> <p>15 spot purchases?</p> <p>16 A. What I recall is that some of them didn't</p> <p>17 show any presence. I'm not sure if they were -- you</p> <p>18 know, why, but they didn't show any.</p> <p>19 And some would show small percentages. That's</p> <p>20 what I recall from looking at that data.</p> <p>21 Q. Do you recall which ones showed no MTBE,</p> <p>22 to your recollection?</p> <p>23 A. No, I don't recall which ones.</p> <p>24 Q. If we go back to paragraph 5, third sentence</p>
Page 55	Page 57
<p>1 used to achieve a 93 octane, instead of MTBE?</p> <p>2 A. I don't know exactly how they do it; but,</p> <p>3 I mean, Hess was certainly at that time probably the</p> <p>4 largest refinery in the Caribbean basin, so -- And it</p> <p>5 was producing 93 octane to be marketed in the northeast</p> <p>6 U.S., principally New York and those markets. So they</p> <p>7 were already producing that grade.</p> <p>8 Q. We've covered CORCO, Phillips Core, and Hess</p> <p>9 HOVENSA. Was there any other supplier on which you have</p> <p>10 an opinion concerning the amount of MTBE present in the</p> <p>11 gasoline supplied to Esso Puerto Rico?</p> <p>12 A. I looked at information that we had,</p> <p>13 whatever we had from -- You know, as I mentioned, we</p> <p>14 would -- we might have had spot purchases from others</p> <p>15 that were on record. And looked at the percentages</p> <p>16 that were there, and were fairly small. And those --</p> <p>17 You know, those suppliers were various suppliers.</p> <p>18 They're shown on the tables.</p> <p>19 Sorry to refer back to that, but I just -- I</p> <p>20 mean, that's where the facts are.</p> <p>21 Q. Okay. When you say spot purchases, what</p> <p>22 do you mean by a spot purchase?</p> <p>23 A. It means, as an example, when we were</p> <p>24 transitioning from 91 to 93, that perhaps in that</p>	<p>1 in that paragraph: "Mr. Casas is expected to testify</p> <p>2 regarding Esso's purchase of gasoline relative to its</p> <p>3 needs at Esso branded stations."</p> <p>4 Do you see that?</p> <p>5 A. You're saying paragraph 5?</p> <p>6 Q. I'm sorry. Paragraph 4.</p> <p>7 A. Oh. Sorry.</p> <p>8 Q. Sorry. No, that's my fault.</p> <p>9 MR. BOLLAR: Which sentence,</p> <p>10 Counselor? I'm sorry.</p> <p>11 MS. O'REILLY: Third sentence.</p> <p>12 BY MS. O'REILLY:</p> <p>13 Q. "Mr. Casas is expected to testify regarding</p> <p>14 Esso's purchase of gasoline relative to its needs at</p> <p>15 Esso branded stations."</p> <p>16 Do you see that?</p> <p>17 A. Yes.</p> <p>18 Q. Have I covered all of the opinions that you</p> <p>19 intend to give at trial in this matter on that subject?</p> <p>20 A. No, we haven't really covered all of them.</p> <p>21 Q. What other opinions do you have on that</p> <p>22 subject that we haven't covered?</p> <p>23 A. I mean, I'm of the opinion that we can very</p> <p>24 effectively trace the products that we were purchasing</p>

Ricardo L. Casas-Lomba

Page 86	Page 88
<p>1 THE DEPONENT: Can you be more 2 specific what you mean by Exxon or -- 3 MS. O'REILLY: Exxon U.S.A., any 4 Exxon U.S.A. affiliate, entity. 5 MR. BOLLAR: Objection. Compound. 6 THE DEPONENT: I mean, throughout 7 my career I received training in various 8 affiliates throughout the organization. 9 You know, some of this training, you 10 know, would have been in Puerto Rico. 11 Sometimes it may be in the U.S. or 12 elsewhere. So it's not, you know, 13 something that, you know, it's just like 14 a one time or anything of that nature. 15 BY MS. O'REILLY: 16 Q. Well, in your deposition, your previous 17 deposition, you talked about you were working in the 18 solvents area initially. Correct? 19 A. Yes, that's correct. 20 Q. When you transitioned to gasoline, did you 21 receive training on the safe handling of gasoline and 22 how to communicate safety procedures to dealers? 23 MR. BOLLAR: Objection. Compound. 24 THE DEPONENT: We -- I mean, the</p>	<p>1 in paragraph 6. Correct? 2 A. Yes. 3 Q. What training did you receive in order to 4 train dealers, in particular, on handling of gasoline 5 at service stations? 6 MR. BOLLAR: Objection. Form. 7 You can answer. 8 THE DEPONENT: I mean, as I said 9 earlier, I attended training provided 10 by the marketing technical services 11 department. 12 In addition, I had -- by the time 13 I had started in the gasoline business, 14 I had been in the solvents and chemical 15 side of the business for eight years. 16 So I had plenty of experience with 17 solvents and training that I've had 18 throughout that time period, you know, 19 based on the different projects I was 20 working throughout that time. 21 MS. O'REILLY: Did -- 22 THE DEPONENT: And -- 23 MS. O'REILLY: Go ahead. 24 I'm sorry.</p>
Page 87	Page 89
<p>1 difference between handling gasoline or 2 handling chemicals, it's -- you know, 3 they're both handled very, very safely 4 by the company. 5 So it's not like we moved from 6 something that was nonflammable to 7 something flammable, because we were 8 handling, you know, solvents such as 9 toluene, which are part of gasoline. 10 So I already had training based on my 11 prior experience in handling these sort 12 of products. 13 And, you know, we did attend -- 14 or I did attend marketing technical 15 services training, specifically when I 16 joined the fuel side of the business, 17 to become more familiar and -- with 18 these various fuels and lubricants that 19 were part of my new responsibilities. 20 BY MS. O'REILLY: 21 Q. Okay. And part of your opinions that you're 22 being offered for here today, in the second part of your 23 designation, discusses interactions between Esso and 24 Esso dealers, including dealer and operator training,</p>	<p>1 THE DEPONENT: No. 2 <u>BY MS. O'REILLY:</u> 3 <u>Q. Did you receive any training on MTBE</u> 4 <u>in gasoline?</u> 5 <u>A. No, I did not.</u> 6 <u>Q. Did you receive any training on leak</u> 7 <u>detection methods specific to MTBE?</u> 8 <u>A. The training was on leak detection and</u> 9 <u>prevention, of gasoline in general. It had nothing</u> 10 <u>particularly different because MTBE would have been,</u> 11 <u>or not, a component.</u> 12 <u>Q. Were you ever told in your training and</u> 13 <u>preparing to train and work with dealers that a teaspoon</u> 14 <u>of MTBE could contaminate a football-size field of</u> 15 <u>groundwater?</u> 16 <u>MR. BOLLAR: Objection to form.</u> 17 <u>THE DEPONENT: I was not told that.</u> 18 <u>BY MS. O'REILLY:</u> 19 <u>Q. Were you ever told that customer spills</u> 20 <u>and drips and leaks could release sufficient MTBE to</u> 21 <u>contaminate a groundwater aquifer?</u> 22 <u>MR. BOLLAR: Objection to form.</u> 23 <u>THE DEPONENT: We were not told</u> 24 <u>that.</u></p>

Augustos Munoz

Page 1

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

- - -

IN RE: METHYL TERTIARY	:	MASTER FILE
BUTYL ETHER ("MTBE")	:	NO. 1:00-1898
LIABILITY LITIGATION	:	M21-88
PRODUCTS	:	MDL 1358(SAS)
-----	:	
COMMONWEALTH OF PUERTO	:	
RICO, ET AL.,	:	
Plaintiff,	:	
	:	CASE NO.
vs.	:	07-CIV-10470
	:	(SAS)
SHELL OIL CO., ET AL.,	:	
Defendants.	:	

The videotaped deposition of:

AUGUSTOS MUÑOZ,
was held at the law offices of O'Neill & Borges,
250 Muñoz Rivera Avenue, 800 American
International Plaza, San Juan, Puerto Rico, on
Wednesday, May 7, 2014, at 9:52 a.m.

Reported by: Shawn D. Weber, RPR

Augustos Munoz

Page 42	Page 44
<p>1 You can answer.</p> <p>2 THE DEPONENT: No. I understand</p> <p>3 that the environmental group kept</p> <p>4 looking at each case up until the tank</p> <p>5 was upgraded.</p> <p>6 BY MS. O'REILLY:</p> <p>7 Q. Was it your understanding that environmental</p> <p>8 would continue to look at it until they identified the</p> <p>9 actual source or mechanism of the release?</p> <p>10 A. Yes.</p> <p>11 Q. Were you ever asked as part of this upgrade</p> <p>12 program, yourself personally, to go out and investigate</p> <p>13 a tank to determine how a leak may have occurred?</p> <p>14 A. Yes.</p> <p>15 Q. How many times?</p> <p>16 A. Many times.</p> <p>17 Q. And what would you do when you went out to a</p> <p>18 station where there was a suspected release, what steps</p> <p>19 would you take to respond to that?</p> <p>20 A. Well, initially, I did a visual inspection</p> <p>21 of each equipment installed, conditions, soil, any soil</p> <p>22 change, color or damaged grass or something like that,</p> <p>23 because that will give us a hint, you know, what</p> <p>24 happened, then proceed with the test.</p>	<p>1 could happen, not many times, you know. That was the</p> <p>2 only one time I saw damage with a filter like that.</p> <p>3 Q. Did dealers change the dispenser filters, or</p> <p>4 did Esso's maintenance department change dispenser</p> <p>5 filters?</p> <p>6 A. Esso did it.</p> <p>7 Q. Esso did it?</p> <p>8 A. Yes.</p> <p>9 Q. If the pump was slowing down, was the dealer</p> <p>10 supposed to call Esso, and then they would come out and</p> <p>11 look at the filters?</p> <p>12 A. Yes.</p> <p>13 Q. With respect to opinion 5(a), we've talked</p> <p>14 about the Veeder-Root, inventory reconciliation,</p> <p>15 monitoring wells. Was there any other part of Esso's</p> <p>16 underground storage tank program that was focused on</p> <p>17 detection, any other part of the program?</p> <p>18 A. I can't recall at this time. No. I think</p> <p>19 it was everything within the tank replacement program,</p> <p>20 as stated since the beginning. It included everything,</p> <p>21 because we included external assistance from</p> <p>22 contractors, environmental contractors that help us put</p> <p>23 together the program, as well as the environmental</p> <p>24 manager and our experience.</p>
Page 43	Page 45
<p>1 Q. So for engineering department, your response</p> <p>2 would be to do a visual inspection of the system and</p> <p>3 look at the soil that you could see and the area and</p> <p>4 then test the tanks. Any other responses that your</p> <p>5 department would take in response to a suspected leak?</p> <p>6 A. If it had a -- what do you call -- the wells</p> <p>7 installed, we got information from the contractor that</p> <p>8 was handling the soil test report, the wells report.</p> <p>9 Q. And you had a contractor go out to each</p> <p>10 station every month and do a vapor test of the wells?</p> <p>11 A. Yeah, they verify for free product, as well</p> <p>12 as vapor.</p> <p>13 Q. What was done with respect to the dispensers</p> <p>14 to check for and response to a suspected leak?</p> <p>15 A. Well, the dispenser is a mechanical</p> <p>16 equipment. It has filters, it had gaskets. In some</p> <p>17 cases, you know, it might have got loose, so it would</p> <p>18 start dripping.</p> <p>19 I, for example, had an experience that at an</p> <p>20 outlet which we had already replaced the sump or</p> <p>21 installed the sump under the dispenser, one of the</p> <p>22 filters exploded, but then nothing happened, thank God.</p> <p>23 But we cleaned it up and set it up again and nothing</p> <p>24 happened there. But these other things we know that</p>	<p>1 Q. Did anyone from Exxon review the program</p> <p>2 that you put together?</p> <p>3 A. Dave Porush did.</p> <p>4 Q. Did he provide you any input on that</p> <p>5 program?</p> <p>6 A. We discussed -- since we were the first ones</p> <p>7 to develop the program for the CCA division, we were</p> <p>8 ahead of everybody, because nobody had done that,</p> <p>9 because we knew that the EPA was coming with new</p> <p>10 regulations. EQB here started doing theirs in '85 or</p> <p>11 '86, probably '84, and so that was when we started our</p> <p>12 program back in 1986, and then we put it up together in</p> <p>13 '88 when the program came into law.</p> <p>14 Q. Did Mr. Porush or anyone else tell you that</p> <p>15 your program that you developed should consider MTBE?</p> <p>16 A. No.</p> <p>17 MS. O'REILLY: We've been going for</p> <p>18 about an hour, so why don't we take a</p> <p>19 quick break.</p> <p>20 THE DEPONENT: Okay.</p> <p>21 THE VIDEOGRAPHER: We are off the</p> <p>22 record. The time is 10:58 a.m.</p> <p>23 (Recess.)</p> <p>24 THE VIDEOGRAPHER: We are back on</p>

12 (Pages 42 to 45)

Augustos Munoz

Page 50	Page 52
<p>1 You can answer.</p> <p>2 THE DEPONENT: No.</p> <p>3 BY MS. O'REILLY:</p> <p>4 <u>Q. Were you ever made aware that very small</u></p> <p>5 <u>releases of gasoline with MTBE could cause significant</u></p> <p>6 <u>contamination of groundwater around the station?</u></p> <p>7 <u>MR. FARINO: Object to the</u></p> <p>8 <u>hypothetical and characterization.</u></p> <p>9 <u>You can answer.</u></p> <p>10 <u>THE DEPONENT: Yes, I did.</u></p> <p>11 BY MS. O'REILLY:</p> <p>12 <u>Q. When?</u></p> <p>13 <u>A. During the last deposition through our</u></p> <p>14 <u>counsel.</u></p> <p>15 <u>Q. At the time that you were working in dealer</u></p> <p>16 <u>training, were you aware that even small releases, such</u></p> <p>17 <u>as from a vapor adapter, could cause MTBE groundwater</u></p> <p>18 <u>contamination?</u></p> <p>19 <u>MR. FARINO: Same objections.</u></p> <p>20 <u>THE DEPONENT: No.</u></p> <p>21 BY MS. O'REILLY:</p> <p>22 <u>Q. During the time you were working in the</u></p> <p>23 <u>Exxon UST program, were you aware that MTBE had been</u></p> <p>24 <u>found in drinking water wells in the United States?</u></p>	<p>1 Q. Were you aware, at any time, when customers</p> <p>2 fill their cars that drips happen from the hoses and the</p> <p>3 dispensers as they take the dispensers in and out of</p> <p>4 their car?</p> <p>5 MR. FARINO: Object to the</p> <p>6 hypothetical.</p> <p>7 You can answer.</p> <p>8 THE DEPONENT: Well, that happens</p> <p>9 very often in the daily operation of a</p> <p>10 service station.</p> <p>11 BY MS. O'REILLY:</p> <p>12 Q. And were you aware that that spilled</p> <p>13 gasoline could leak through cracks in the pavement and</p> <p>14 reach the environment?</p> <p>15 A. It could.</p> <p>16 Q. Was anything done when you were at Esso to</p> <p>17 address potential cracks in the pavement so as to avoid</p> <p>18 those spills reaching the environment?</p> <p>19 A. I don't recall.</p> <p>20 Q. Other than EQB standards in your opinion</p> <p>21 5(b) and we talked about PEI, were there any other</p> <p>22 standards that you compared Esso's training to?</p> <p>23 A. No.</p> <p>24 MS. O'REILLY: Let me mark a</p>
Page 51	Page 53
<p>1 <u>MR. FARINO: Objection.</u></p> <p>2 <u>Mischaracterization of his testimony and</u></p> <p>3 <u>his position.</u></p> <p>4 <u>Also, it calls for speculation.</u></p> <p>5 <u>also, incomplete hypothetical.</u></p> <p>6 <u>You can answer.</u></p> <p>7 <u>MS. O'REILLY: Speaking objection.</u></p> <p>8 BY MS. O'REILLY:</p> <p>9 <u>Q. Go ahead.</u></p> <p>10 <u>A. No, I don't.</u></p> <p>11 Q. I believe during your last deposition, you</p> <p>12 talked about a little bit about repairs at Esso stations</p> <p>13 of the concrete in the entryway. Do you recall that</p> <p>14 testimony?</p> <p>15 A. Yes.</p> <p>16 Q. Do you know if part of your upgrade program</p> <p>17 was to repair concrete around the tank pads or</p> <p>18 dispensers at stations?</p> <p>19 A. No. That was after I left Esso. I did some</p> <p>20 work on a couple of outlets, but it was primarily at</p> <p>21 access or egress of the outlet, because that's normally</p> <p>22 where the sidewalk or entrance ramps or asphalt inside</p> <p>23 the tank get more affected, but not, at any time, pump</p> <p>24 islands.</p>	<p>1 document, and then I'll go on to (c) and</p> <p>2 (d).</p> <p>3 (Muñoz Exhibit No. 5 marked for</p> <p>4 identification.)</p> <p>5 MS. O'REILLY: For the record, I've</p> <p>6 marked as Exhibit 5 a document that was</p> <p>7 previously marked at Mr. Muñoz' December</p> <p>8 deposition as Exhibit 9. It's an Esso</p> <p>9 CCD environmental review dated April 17,</p> <p>10 1989, presentation outline.</p> <p>11 BY MS. O'REILLY:</p> <p>12 Q. And this was the outline for the upgrade</p> <p>13 program that you prepared, correct?</p> <p>14 A. Yes.</p> <p>15 MR. FARINO: Objection to the</p> <p>16 characterization.</p> <p>17 BY MS. O'REILLY:</p> <p>18 Q. So I want to go -- I have just a couple of</p> <p>19 very quick questions.</p> <p>20 And it doesn't have a page number. There's a</p> <p>21 handwritten page number 7.</p> <p>22 A. Yes.</p> <p>23 Q. And as part of your opinions today, you</p> <p>24 indicated the storage tank program focused on</p>

14 (Pages 50 to 53)

Augustos Munoz

Page 74	Page 76
<p>1 not only that, you know, it's disposing of the property</p> <p>2 of the corporation.</p> <p>3 Q. In the tank upgrade program, there were a</p> <p>4 couple of different options. You started out with</p> <p>5 single wall fiberglass and moved to double wall. Was</p> <p>6 there any problems along the way that you encountered</p> <p>7 with the equipment Esso was utilizing to upgrade and</p> <p>8 replace tanks?</p> <p>9 MR. FARINO: Objection. Vague.</p> <p>10 You can answer.</p> <p>11 THE DEPONENT: Not until I left,</p> <p>12 nothing, just the normal, routine work,</p> <p>13 routine experiences. But in terms of</p> <p>14 the tanks in fiberglass, I don't have no</p> <p>15 negative experience in that.</p> <p>16 BY MS. O'REILLY:</p> <p>17 Q. Did Esso -- did you and your engineering</p> <p>18 group actually install the new tanks, or did you have a</p> <p>19 contractor?</p> <p>20 A. Contractors.</p> <p>21 Q. And what did you do for oversight of those</p> <p>22 contractors to ensure that they were properly trained</p> <p>23 and installed the tanks correctly?</p> <p>24 A. Well, they couldn't do anything until my</p>	<p>1 A. Yes.</p> <p>2 Q. Were your engineers trained in installation</p> <p>3 of underground storage tanks in order to implement the</p> <p>4 program?</p> <p>5 A. Yeah.</p> <p>6 Q. Where did they receive their training?</p> <p>7 A. By myself.</p> <p>8 Q. And where did you receive your training?</p> <p>9 A. On the job.</p> <p>10 Q. And did you ever go to the US for training</p> <p>11 on underground storage tank installation?</p> <p>12 A. No. What I did was I used the documents</p> <p>13 from different -- like PEI. What else, the regulations</p> <p>14 from API. That was basically the main source of those,</p> <p>15 because from site to site, you know, there are different</p> <p>16 factors that may affect, as well as regulations. But</p> <p>17 here, I received information, you know, from all these</p> <p>18 sources, and then by experience.</p> <p>19 Q. Do you believe that if there were extra</p> <p>20 steps that could have been taken to prevent MTBE from</p> <p>21 reaching drinking water wells that those steps should be</p> <p>22 taken to prevent those releases?</p> <p>23 MR. FARINO: Objection to form.</p> <p>24 You can answer.</p>
Page 75	Page 77
<p>1 engineer was there, and then the -- what do you call --</p> <p>2 an environmental contractor has to be there in order to</p> <p>3 verify that the soil around the tank pit bottom, as well</p> <p>4 as on the walls, was clean in order to remove every</p> <p>5 trace of impacted soil, put it on the side and then</p> <p>6 install new material.</p> <p>7 Q. And did anyone from Esso oversee the</p> <p>8 contractor while they were installing the tanks and</p> <p>9 lines to ensure that it was done correctly?</p> <p>10 A. Yes.</p> <p>11 MR. FARINO: Objection. Asked and</p> <p>12 answered.</p> <p>13 THE DEPONENT: Sorry.</p> <p>14 MR. FARINO: No problem.</p> <p>15 BY MS. O'REILLY:</p> <p>16 Q. Is that someone from your department?</p> <p>17 A. Yes, my engineer. They have to sign the</p> <p>18 document that has to be filed to the EQB. That's one</p> <p>19 thing.</p> <p>20 Another one is that they had to sign up that the</p> <p>21 unit, that the fiberglass tank was installed</p> <p>22 accordingly, the tests were done properly and everything</p> <p>23 was negative.</p> <p>24 Q. You mean the pressure tests?</p>	<p>1 THE DEPONENT: If I had knowledge,</p> <p>2 which at that time, I didn't, possibly,</p> <p>3 yes.</p> <p>4 MS. O'REILLY: I think I'm done.</p> <p>5 Why don't you give me a couple of</p> <p>6 minutes just to review my notes, and</p> <p>7 then I think we can be done today.</p> <p>8 THE DEPONENT: Okay.</p> <p>9 THE VIDEOGRAPHER: We are off the</p> <p>10 record. The time is 11:59.</p> <p>11 (Recess.)</p> <p>12 THE VIDEOGRAPHER: We are back on</p> <p>13 the record. The time is 12:03, media 2.</p> <p>14 MR. FARINO: We have no questions.</p> <p>15 I don't believe anybody on the phone has</p> <p>16 questions. Correct me if I'm wrong.</p> <p>17 MS. O'REILLY: And I'm finished</p> <p>18 with my questions for the day. We can</p> <p>19 close out the record.</p> <p>20 THE DEPONENT: Thank you.</p> <p>21 THE VIDEOGRAPHER: This is the end</p> <p>22 of today's deposition. The time is</p> <p>23 12:03 p.m. Off the record.</p> <p>24</p>

20 (Pages 74 to 77)

Exhibit 4

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE: METHYL TERTIARY BUTYL *
ETHER ("MTBE") PRODUCTS
LIABILITY LITIGATION *

Master File
No. 1:00-1898

COMMONWEALTH OF PUERTO RICO, *
et al., *

MDL 1358 (SAS)
M21-88

Plaintiffs, *

vs. *

Defendants. *

Case No. 07-CIV-10470 (SAS)

The videotape deposition of:

ANGEL M. RIVERA-AGOSTINI,

a former Texaco Service Station Operator, and a
Non-Party Witness herein, was held at Street 1, H-7,
Jardines de Santo Domingo Urbanization, Juana Diaz,
Puerto Rico 00795, on Tuesday, June 11, 2013,
at 9:59 a.m.

<p style="text-align: right;">77</p> <p>1 MR. MAHER: Objection to form.</p> <p>2 THE DEPONENT: It was crazy. It was no</p> <p>3 way to live.</p> <p>4 BY MS. O'REILLY:</p> <p>5 Q. Were you unhappy with the contract with</p> <p>6 Texaco and the way that they responded to you when you</p> <p>7 called to have problems fixed?</p> <p>8 MR. MAHER: Objection to form, and</p> <p>9 leading.</p> <p>10 THE DEPONENT: To a certain extent.</p> <p>11 BY MS. O'REILLY:</p> <p>12 Q. And after, did Texaco release you from</p> <p>13 your contract?</p> <p>14 MR. MAHER: Objection to form.</p> <p>15 THE DEPONENT: Well, apparently, yes,</p> <p>16 based on this document that they gave me to</p> <p>17 sign.</p> <p>18 BY MS. O'REILLY:</p> <p>19 Q. Okay. Do you remember did you have a</p> <p>20 dispute with Texaco about ending the contract?</p> <p>21 MR. MAHER: Objection to form, and</p> <p>22 leading.</p> <p>23 THE DEPONENT: I don't recall. There were</p> <p>24 moments, but I don't know if they were related.</p> <p>25</p>	<p style="text-align: right;">79</p> <p>1 <u>representative or anyone from Texaco telling you that</u></p> <p>2 <u>the gasoline had MTBE in it?</u></p> <p>3 <u>A. No, I don't recall.</u></p> <p>4 <u>Q. Do you recall if anyone from Texaco told</u></p> <p>5 <u>you that MTBE would-- in the gasoline, if released,</u></p> <p>6 <u>would contaminate water that people used for drinking?</u></p> <p>7 <u>MR. MAHER: Objection to form, and</u></p> <p>8 <u>leading.</u></p> <p>9 <u>THE DEPONENT: No.</u></p> <p>10 <u>BY MS. O'REILLY:</u></p> <p>11 <u>Q. Would you be concerned if you found out</u></p> <p>12 <u>that the MTBE in the gasoline at your station could</u></p> <p>13 <u>contaminate water that people were drinking?</u></p> <p>14 <u>MR. MAHER: Objection to form.</u></p> <p>15 <u>THE DEPONENT: Of course.</u></p> <p>16 <u>BY MS. O'REILLY:</u></p> <p>17 <u>Q. And would you-- if you were told that</u></p> <p>18 <u>there were extra steps you could take so that the MTBE</u></p> <p>19 <u>wouldn't contaminate the water that people drink, would</u></p> <p>20 <u>you do that?</u></p> <p>21 <u>MR. MAHER: Objection to form. Leading.</u></p> <p>22 <u>THE DEPONENT: Of course.</u></p> <p>23 BY MS. O'REILLY:</p> <p>24 Q. Did you feel when you ran the station that</p> <p>25 you got enough support from Texaco to help you with the</p>
<p style="text-align: right;">78</p> <p>1 BY MS. O'REILLY:</p> <p>2 Q. Did you sell the station to someone, or</p> <p>3 did you just release your contract?</p> <p>4 MR. MAHER: Objection to form.</p> <p>5 THE DEPONENT: Yes, yes, yes.</p> <p>6 MR. MAHER: Objection. Non-responsive.</p> <p>7 BY MS. O'REILLY:</p> <p>8 Q. Did you sell the station to someone?</p> <p>9 A. Yes.</p> <p>10 Q. And how did you find someone to buy the</p> <p>11 station?</p> <p>12 A. I don't recall.</p> <p>13 Q. Did you know the person who bought the</p> <p>14 station from you before you sold it to them?</p> <p>15 MR. MAHER: Objection to form.</p> <p>16 THE DEPONENT: No.</p> <p>17 BY MS. O'REILLY:</p> <p>18 Q. Did Texaco help you find someone to buy</p> <p>19 the station?</p> <p>20 MR. MAHER: Objection to form.</p> <p>21 THE DEPONENT: I don't recall.</p> <p>22 BY MS. O'REILLY:</p> <p>23 Q. Just a couple of more questions.</p> <p>24 A. Uh-huh.</p> <p>25 <u>Q. Do you recall at any time your sales</u></p>	<p style="text-align: right;">80</p> <p>1 station?</p> <p>2 MR. MAHER: Objection to form.</p> <p>3 THE DEPONENT: No.</p> <p>4 BY MS. O'REILLY:</p> <p>5 Q. Okay. I think I do not have any more</p> <p>6 questions. Why don't we take a break. I'm assuming he</p> <p>7 will have some questions. I don't know if anyone else</p> <p>8 here will have some questions. Can we take a break for</p> <p>9 a minute?</p> <p>10 A. Okay.</p> <p>11 Q. Thank you.</p> <p>12 THE VIDEOGRAPHER: Going off the record.</p> <p>13 The time is 12:47.</p> <p>14 (Recess.)</p> <p>15 THE VIDEOGRAPHER: We're back on the</p> <p>16 record. The time is 1:02. On the record.</p> <p>17 EXAMINATION</p> <p>18 BY MR. MAHER:</p> <p>19 Q. Mr. Rivera, I introduced myself earlier</p> <p>20 this morning. My name is Jim Maher. I represent</p> <p>21 Texaco in this lawsuit.</p> <p>22 Earlier in the deposition you said that you</p> <p>23 bought the keys to the Constancia station.</p> <p>24 Do you remember that?</p> <p>25 A. Yes.</p>

Jose De La Rosa

Page 1

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

IN RE: METHYL TERTIARY)	MASTER FILE
BUTYL ETHER ("MTBE))	NO. 1:00-1898
PRODUCTS)	M21-88
LIABILITY LITIGATION)	MDL 1358(SAS)
)	
_____)	
)	
COMMONWEALTH OF PUERTO)	
RICO, ET AL.)	
PLAINTIFF,)	CASE NO. 07-CIV-10470
)	(SAS)
VS.)	
)	
SHELL OIL CO., ET AL.,)	
DEFENDANTS.)	

DEPOSITION OF
JOSE DE LA ROSA
SEPTEMBER 12, 2013

Called as a witness by counsel for the Plaintiffs, taken before Dorothy A. Rull, CSR, CRR, a Certified Shorthand Reporter and Notary Public in and for the State of Texas, on the 12th day of September, 2013, from 9:05 a.m. to 2:59 p.m., at the law offices of Norton Rose Fulbright, 1301 McKinney, Suite 5100, Houston, Texas 77010, pursuant to Notice and the Federal Rules of Civil Procedure.

Jose De La Rosa

Page 6	Page 8
<p>1 EXHIBIT INDEX</p> <p>2 1 First Amended Notice of Deposition of 08 Defendant Chevron Puerto Rico Core, LLC 3 on Designated Issues With Production of Documents & Videotaping</p> <p>4 2 Chevron Puerto Rico, LLC's Declarations 08 5 in Lieu of Deposition Testimony</p> <p>6 3 Map of Puerto Rico 52</p> <p>7 4 February 28, 1985 Letter From Victor 71 Santiago to Texaco P.R. (CHEVMDL1358_PR-00000085636)</p> <p>8 5 February 3, 1986 Letter From the United 79 9 States Department of the Interior to Chevron USA (CHEVMDL1358_PR-00000083590)</p> <p>10 6 Generator Waste Profile Sheet 88 11 (CHEVMDL1358_PR-00000086699)</p> <p>12 7 Altol Environmental Services May 2008 90 13 Report (CHEVMDL1358_PR-00000117388 - 410)</p> <p>14 8 10 May 1999 Memorandum 105 (CHEVMDL1358_PR-00000077707 - 721)</p> <p>15 9 November 30, 2010 Letter From ERTEC 126 16 to Chevron Puerto Rico (CHEVMDL1358_PR-00000081601 - 605)</p> <p>17 10 ERTEC Remedial Investigation 129 18 (CHEVMDL1358_PR-00000080552 - 602)</p> <p>19 10b Tables (CHEVMDL1358_PR-00000080503 - 607)</p> <p>20 11 ERTEC Baseline Groundwater Sampling 130 Report (CHEVMDL1358_PR-00000117092 - 7129)</p> <p>21 12 ERTEC Correction Action Plan 145 22 (PR-MTBE_412958 - 413057)</p> <p>23 13 October 19, 1990 Letter From Mary Jane 156 24 Van Allmen to Texaco (CHEVMDL1358_PR-00000122073 - 080)</p>	<p>1 PROCEEDINGS</p> <p>2 (Exhibit Nos. 1-2 marked.)</p> <p>3 THE VIDEOGRAPHER: We are now on the</p> <p>4 record.</p> <p>5 My name is Brian Bobbitt. I'm a</p> <p>6 videographer for Golkow Technologies. Today's date</p> <p>7 is September 12, 2013, and the time is 9:15 a.m.</p> <p>8 This is video deposition is being</p> <p>9 held in Houston, Texas, in the matter of MTBE</p> <p>10 Products Liability Litigation before the United</p> <p>11 States District Court, Southern District of New</p> <p>12 York.</p> <p>13 The deponent is Jose De La Rosa.</p> <p>14 Would counsel like to identify</p> <p>15 themselves for the record.</p> <p>16 MR. MAHER: Jim Maher, King &</p> <p>17 Spalding, for Chevron Puerto Rico, LLC.</p> <p>18 MR. CORRELL: Charles Correll, Jr.,</p> <p>19 King & Spalding, for Chevron Puerto Rico, LLC.</p> <p>20 MS. FARLEY: Jessica Farley for</p> <p>21 Chevron Phillips Chemical Puerto Rico Core and</p> <p>22 ConocoPhillips Company.</p> <p>23 MR. PETTIT: Will Petit for the</p> <p>24 Commonwealth of Puerto Rico.</p>
Page 7	Page 9
<p>1 14 2 June 1997 Letter From Jose J. 169 Betancourt to Roberto Ayala 2 (PR-MTBE-TRUJ_094619 - 20)</p> <p>3 15 Analysis of Local Sales 171 4 (CPCPR-053902 - 914)</p> <p>5 16 10/14/99 Invoice 195 6 (CHEVMDL1358_PR-00000086259)</p> <p>7 17 Certificate of Quality 198 8 (CHEVMDL1358_PR-00000057500)</p> <p>9 18 Certificate of Quality 202 10 (CHEVMDL1358_PR-00000073002)</p> <p>11 19 Certificate of Submitted Analysis 204 12 (CHEVMDL1358_PR-00000077313)</p> <p>13 * * *</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>	<p>1 MR. AXLINE: Mike Axline for the</p> <p>2 Commonwealth of Puerto Rico.</p> <p>3 And we have the names of the folks</p> <p>4 on the phone. I don't think we need to have them</p> <p>5 announce themselves.</p> <p>6 But we do have a -- a statement that</p> <p>7 counsel for Texaco and I have agreed to before we</p> <p>8 went on the record.</p> <p>9 So, Jim, would you do the honors.</p> <p>10 MR. MAHER: Yeah.</p> <p>11 <u>Mr. De La Rosa be -- is being</u></p> <p>12 <u>presented in response to the Plaintiffs' notice to</u></p> <p>13 <u>Chevron Puerto Rico, LLC. That company was formerly</u></p> <p>14 <u>known as Texaco Puerto Rico, Inc.</u></p> <p>15 And what we are going to agree to</p> <p>16 today is that references -- we're going to use the</p> <p>17 word "Texaco" to refer to those companies generally.</p> <p>18 But, if it's agreed, any references</p> <p>19 to "Chevron" or "Texaco" throughout the course of</p> <p>20 the day, unless otherwise stated, will reference</p> <p>21 Chevron Puerto Rico, LLC, formerly Texaco Puerto</p> <p>22 Rico.</p> <p>23 MR. AXLINE: Okay. That's</p> <p>24 acceptable to me.</p>

Jose De La Rosa

<p style="text-align: right;">Page 14</p> <p>1 asking; is that correct?</p> <p>2 A. Yes. On behalf of Texaco Puerto Rico.</p> <p>3 Q. Very good.</p> <p>4 MR. CORRELL: You had -- he's not</p> <p>5 designated on all topics.</p> <p>6 MR. AXLINE: I --</p> <p>7 MR. MAHER: I don't think the</p> <p>8 question said anything about topics.</p> <p>9 MR. CORRELL: I know.</p> <p>10 MR. AXLINE: Yeah. We -- I don't</p> <p>11 mind saying we have an agreement that for some of</p> <p>12 these topics we'll either get a separate declaration</p> <p>13 or do another witness.</p> <p>14 MR. MAHER: Right.</p> <p>15 MR. AXLINE: But I -- so I won't be</p> <p>16 asking questions about some of the topics. I just</p> <p>17 wanted to make sure the witness had seen this and</p> <p>18 looked at the list.</p> <p>19 BY MR. AXLINE:</p> <p>20 Q. So, Mr. De La Rosa, I think you have</p> <p>21 Exhibit No. 2 in front of you that was handed to you</p> <p>22 before the deposition started.</p> <p>23 And have you seen this document</p> <p>24 before?</p>	<p style="text-align: right;">Page 16</p> <p>1 Exhibit A on behalf of Texaco and that you're</p> <p>2 prepared to answer the few follow-up questions I'm</p> <p>3 going to have for you today.</p> <p>4 A. Yes. And then, yes, I am.</p> <p>5 Q. Okay. Terrific. Great.</p> <p>6 So let me begin the substance of</p> <p>7 this by asking you to briefly describe your tenure</p> <p>8 with Texaco.</p> <p>9 <u>When were you hired and what</u></p> <p>10 <u>positions have you had with -- with Texaco?</u></p> <p>11 A. <u>Well, I was hired in 1991</u> as a</p> <p>12 construction and maintenance engineer for Texaco</p> <p>13 Puerto Rico, Inc. I -- I spent around seven years</p> <p>14 in that position. Then I moved to health,</p> <p>15 environment and safety coordinator position.</p> <p>16 After that, around 1999, I spent</p> <p>17 some time in the original offices in Coral Gables as</p> <p>18 an operations business analyst. Then I went back to</p> <p>19 Puerto Rico around 1999, 2000, as an HES</p> <p>20 coordinator.</p> <p>21 I was assigned to HES coordination</p> <p>22 responsibilities or duties or -- for the Bahamas</p> <p>23 around 2001. Then in -- that included some</p> <p>24 responsibilities for Texaco Puerto Rico and that.</p>
<p style="text-align: right;">Page 15</p> <p>1 A. Yes, I have.</p> <p>2 Q. Okay. And could you describe for me</p> <p>3 what this document is, your understanding.</p> <p>4 A. Well, this is -- this is basically a</p> <p>5 recollection of the facts that are intended to</p> <p>6 address the designated issues that are contained in</p> <p>7 Exhibit 1.</p> <p>8 Q. Uh-huh.</p> <p>9 A. That's basically it. We tried to</p> <p>10 present it up front to you so that we can, for the</p> <p>11 sake of this deposition, be as time efficient as</p> <p>12 possible.</p> <p>13 Q. Excellent.</p> <p>14 And at the very end of Exhibit 2,</p> <p>15 there's a verification that you have signed. Do you</p> <p>16 see that?</p> <p>17 A. Yes.</p> <p>18 Q. And it refers to Exhibit A, which is a</p> <p>19 list of bullet points that address various topics;</p> <p>20 correct?</p> <p>21 A. Yes. Yes.</p> <p>22 Q. And I just want to double-check with you</p> <p>23 for the record that you have, in fact, reviewed</p> <p>24 Exhibit A and that you agree with the statements in</p>	<p style="text-align: right;">Page 17</p> <p>1 And, after that, I moved outside the</p> <p>2 company for about two years. Do you need me to tell</p> <p>3 a little bit about that?</p> <p>4 Q. Very briefly, if you would.</p> <p>5 A. Yeah. Well, I was just health,</p> <p>6 environmental safety district manager for the Home</p> <p>7 Depot in -- in Puerto Rico.</p> <p>8 Q. And -- sorry. I'm breaking my rule on</p> <p>9 interrupting you.</p> <p>10 But what years were those?</p> <p>11 A. <u>That was around 2002 to 2004,</u></p> <p>12 <u>approximately. Then I returned to Texaco -- by --</u></p> <p>13 <u>by then, it was Chevron Puerto Rico -- as an</u></p> <p>14 <u>environmental project manager for Chevron</u></p> <p>15 <u>Environmental Management Company. That was around</u></p> <p>16 <u>2006.</u></p> <p>17 <u>Let me correct something. The --</u></p> <p>18 <u>the timing in Home Depot was between 2004 and 2006.</u></p> <p>19 Q. Okay. Thank you.</p> <p>20 <u>And you -- you mentioned Chevron</u></p> <p>21 <u>Environmental Services Company?</u></p> <p>22 A. <u>Chevron Environmental Management</u></p> <p>23 <u>Company.</u></p> <p>24 Q. <u>Management Company.</u></p>

5 (Pages 14 to 17)

Jose De La Rosa

<p style="text-align: right;">Page 18</p> <p><u>1</u> <u>And what is that company's</u> <u>2</u> <u>relationship to Texaco, if you know?</u> <u>3</u> <u>A. To Texaco Puerto Rico?</u> <u>4</u> <u>Q. Yes.</u> <u>5</u> <u>MR. MAHER: Objection. Calls for</u> <u>6</u> <u>speculation.</u> <u>7</u> <u>BY MR. AXLINE:</u> <u>8</u> <u>Q. You can answer.</u> <u>9</u> <u>A. Okay. It was -- Chevron Environmental</u> <u>10</u> <u>Management Company is an affiliate of Chevron that</u> <u>11</u> <u>provides services on environmental management</u> <u>12</u> <u>liabilities to other businesses in -- within</u> <u>13</u> <u>Chevron.</u> <u>14</u> Q. Uh-huh. <u>15</u> And could you then briefly describe <u>16</u> for me the educational background or training that <u>17</u> you have acquired that led you into the health and <u>18</u> environmental services part of Texaco. <u>19</u> A. Well, I'm -- chemical engineering by <u>20</u> training and I've taken numerous trainings during <u>21</u> the course of my tenure in Texaco and Chevron. <u>22</u> I started with hazardous oper -- <u>23</u> hazardous waste operations, hazardous materials <u>24</u> operations, environmental remediation, risk-based</p>	<p style="text-align: right;">Page 20</p> <p><u>1</u> <u>And that was until I moved to the</u> <u>2</u> <u>next position in Chevron Project Resources Company,</u> <u>3</u> <u>which is the one that I hold today.</u> <u>4</u> Q. And -- and what's -- <u>5</u> A. And today -- and today I am an <u>6</u> environmental advisor -- or Health, Environmental <u>7</u> and Safety Advisor for Chevron Project Resources <u>8</u> Company, which is another affiliate of Chevron that <u>9</u> provides project management services to the <u>10</u> different organizations within Chevron. <u>11</u> Q. And while you were working for Texaco <u>12</u> Puerto Rico, you supervised work at multiple Texaco <u>13</u> stations on the island? <u>14</u> A. Yes. <u>15</u> Q. Were you ever personally involved in <u>16</u> supervising the remediation occurring at the Trial <u>17</u> Site No. 10 that we're going to be talking about <u>18</u> today? <u>19</u> A. Yes. <u>20</u> Q. Okay. Thank you for that summary. <u>21</u> Can I now ask you to describe for me <u>22</u> what you did to prepare for today's deposition. Did <u>23</u> you look at documents? Interview people? <u>24</u> Maybe if you could describe that for</p>
<p style="text-align: right;">Page 19</p> <p><u>1</u> corrective actions, occupational safe -- health and <u>2</u> safety, project management, decision-making, all <u>3</u> sort of trainings related to my different positions. <u>4</u> Q. And have your positions been mostly <u>5</u> supervisory or have they been more on the ground, <u>6</u> practical? Can you describe that aspect of your <u>7</u> work. <u>8</u> A. I had both. In the first years, I was <u>9</u> more of the field type of work. Most of the time, I <u>10</u> had responsibilities over contractors that actually <u>11</u> did the field work for the company. <u>12</u> In the coordination -- HES <u>13</u> coordination role, I was also in the field, have an <u>14</u> oversight responsibility for environment contractors <u>15</u> mostly. <u>16</u> I was -- I had some training role -- <u>17</u> or training provider role for contractors -- <u>18</u> construction contractors in the safety and <u>19</u> environmental management part, also. <u>20</u> In EMC, I started with direct <u>21</u> responsibilities for field work and, after that, I <u>22</u> was -- assumed the position of team lead. So I -- <u>23</u> there I was formally supervising other project <u>24</u> managers.</p>	<p style="text-align: right;">Page 21</p> <p><u>1</u> me generally and then I might have some specifics <u>2</u> questions for you. <u>3</u> A. Sure. Yeah. I reviewed numerous <u>4</u> documents, all the documents that I could have <u>5</u> access to. <u>6</u> I had the opportunity to talk to <u>7</u> several people that were somehow related to this <u>8</u> site in different roles, most of them employees or <u>9</u> former employees of Texaco Puerto Rico. <u>10</u> Do you need names? <u>11</u> Q. Yes. If you can give those to me, I'd <u>12</u> appreciate it. <u>13</u> A. Well, yeah. I had the opportunity to <u>14</u> talk with Jose Luis Faure, who was the district <u>15</u> manager; Alma Rodriguez, who was also district <u>16</u> manager that covered this site. She was the <u>17</u> business consultant for this site at some point. <u>18</u> Q. I'm sorry. Can I ask you to slow down a <u>19</u> little bit. <u>20</u> A. Oh. <u>21</u> Q. The court reporter is faster than me, <u>22</u> but.... <u>23</u> A. Sure. <u>24</u> Q. So Jose Luis -- what was the first</p>

6 (Pages 18 to 21)

Jose De La Rosa

<p style="text-align: right;">Page 98</p> <p>1 So there was an agreement. I mean, 2 this is the protocol that EMC uses. And, obviously, 3 there was some considerations on -- we knew that we 4 would be analyzing for a parameter that was not 5 regulated. 6 So we started monitoring for -- or 7 sampling for MTBE six years before the regulation 8 was actually implemented by the EQB. Right? 9 So we had to decide on what -- where 10 we're going to do -- or why are we going to be 11 sampling for MTBE. So it was part of a protocol for 12 EMC. 13 We wanted to establish a standard 14 way of operating. That was my personal view, as an 15 EMC person that didn't want to establish my own 16 protocol or anything like that. So I was following 17 the protocol that -- that EMC used everywhere. 18 And Texaco Puerto Rico agreed that 19 there was no -- there was no objection for -- for 20 sampling, using EMC protocol. 21 And, obviously, that implied that we 22 would be reporting the results to the EQB in -- in 23 the reports and that's what we do -- what we did 24 eventually.</p>	<p style="text-align: right;">Page 100</p> <p>1 MR. MAHER: It was not -- just -- 2 let me just object on the basis that it -- and, 3 again, I can't remember the question; so, I'm not 4 sure whether or not it was inside or outside the 5 scope. 6 But the question was answered in 7 sort of a personal knowledge sort of way. So -- and 8 so I'll just lodge that objection -- 9 MR. AXLINE: All right. 10 MR. MAHER: -- for the record. 11 BY MR. AXLINE: 12 Q. I want to follow up on something you 13 said, though. 14 Because I -- I believe you stated 15 that most of the gasoline imported into Puerto Rico 16 did not contain MTBE. 17 Did I hear that right? 18 A. I said it that way. And that is based 19 on my knowledge of -- that MTBE was not required to 20 be added to the gasoline imported to -- to the 21 island. 22 Q. But you're not suggesting that MTBE 23 wouldn't have been in gasoline unless it was 24 required to be in gasoline, are you?</p>
<p style="text-align: right;">Page 99</p> <p>1 <u>BY MR. AXLINE:</u> 2 <u>Q. So were you aware that MTBE was in</u> 3 <u>gasoline being sold in Puerto Rico before you began</u> 4 <u>work for Chevron in the EMC?</u> 5 <u>A. Frankly, I was under the impression that</u> 6 <u>MTBE was not being used before that -- I mean,</u> 7 <u>before getting prepared for this deposition because</u> 8 <u>that was the -- the premise.</u> 9 <u>We've seen documents in this</u> 10 <u>deposition -- in preparation for this deposition</u> 11 <u>that indicate the presence of MTBE in the gasoline.</u> 12 <u>Q. Uh-huh.</u> 13 <u>A. But for the same token, most of the</u> 14 <u>supplies to the island -- most of the supplies of</u> 15 <u>gasoline did not contain MTBE.</u> 16 <u>So we are -- today, I can tell you</u> 17 <u>that I am aware that the gasoline contained MTBE.</u> 18 <u>Most of the gasoline imported to the isl -- to the</u> 19 <u>island did not contain MTBE.</u> 20 <u>So to your question was I aware at</u> 21 <u>that point back in 2006 that MTBE would be expected</u> 22 <u>to be found in the stations, no. I wasn't expecting</u> 23 <u>to find MTBE. But that was part of a protocol and</u> 24 <u>we did it that way.</u></p>	<p style="text-align: right;">Page 101</p> <p>1 A. Can you say that question again. 2 Because -- 3 Q. I'll have the court reporter read it 4 back. That's a luxury we have at these things. 5 MR. AXLINE: Can you read that back. 6 (The record was read as requested.) 7 A. For the knowledge that I have now, I 8 cannot imply that. Because, obviously, we received 9 gasoline with MTBE. 10 I'm -- I am saying that based on my 11 expectations that are based on the specifications 12 for conventional gasoline that do not require the 13 addition of MTBE or any other oxygenate. 14 So it's -- I guess it's the way your 15 question is -- is phrased. That's -- that's my 16 knowledge. 17 BY MR. AXLINE: 18 Q. I really want to explore the answer that 19 you gave a moment ago, though. 20 A. Okay. 21 Q. You stated, as a 30(b)(6) witness for 22 Texaco Puerto Rico, that MTBE was not in gasoline 23 that was imported into Puerto Rico. 24 MR. MAHER: I'll just object.</p>

26 (Pages 98 to 101)

Exhibit 5



**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

IN RE METHYL TERTIARY BUTYL ETHER (MTBE) PRODUCTS LIABILITY LITIGATION	Master File No: 1:00- cv-1898
This document relates to:	MDL 1358 (SAS)
Commonwealth of Puerto Rico v. Shell Oil Company, et al., USDC- SDNY 07-10470 (SAS); USDC-PR 07-1505 (CCC)	

DECLARATION OF JAN CARLOS RODRÍGUEZ-MUÑOZ

I, Jan Carlos Rodríguez-Muñoz, of legal age, married, and a resident of Guaynabo, Puerto Rico, pursuant to 28 U.S.C. § 1746, hereby declare under the penalty of perjury that:

1. I have read the following statements and, to the best of my knowledge and belief and/or pursuant to records and information in possession of Total Petroleum Puerto Rico Corp. ("TPPRC" or "Company"), the contents of this Declaration are true and correct as of the date hereof.

2. This Declaration concerns information and records relevant to the supply of gasoline to the Company and to Trial Site No. 9 up to the year 2012. In 2012, with the enactment of Law No. 16 of January 11, 2012, the Puerto Rico Legislative Assembly banned the use of Methyl Tertiary Butyl Ether ("MTBE") as a gasoline additive in Puerto Rico.

3. I have worked for the Company since September 15, 2008. I am currently the Company's Network Director.

4. The Company is a nongovernmental for-profit corporation that, according to its records and public records kept by the Puerto Rico Department of State, was created in 1992.

5. Before changing its name to TPPRC in 2004, the Company was named Gasolinas de Puerto Rico Corporation.

6. I am familiar with the gasoline service station located at 263 Jesús T. Piñero Avenue in San Juan, Puerto Rico, and referred to as Trial Site No. 9 or Total 1012 for purposes of this litigation. Trial Site No. 9 was previously known as GPR 1012. The Puerto Rico Environmental Quality Board has assigned the Site Id. No. 02-91-0067 to Trial Site No. 9.

7. Until 1998, Trial Site No. 9 did not have an independent retailer. After the Legislative Assembly enacted a complete detachment policy between wholesale and retail of gasoline in Puerto Rico, the station was turned over for operation by a franchisee-retailer that operates it under the Company's brand.

8. The service station has been operated by the following retailers: Bartolo, Inc., from April 1998 to January 2003; Q&M Distributors, Inc., from February 2003 to February 2006; IBT

Investments Corporation, from March 2007 to May 2010; and General Administration Services, Inc., from May 2010 to this date.

9. Since 1992 the Company has supplied the gasoline sold at Trial Site No. 9. Tank trucks pick up the gasoline at the corresponding terminal and deliver it to the service station.

10. According to records reviewed, the Company has never manufactured, blended, stored, or otherwise owned or handled neat of pure MTBE or TBA.

11. Company records indicate that the Company has always requested for purchase conventional regular and premium gasoline, but has never requested reformulated gasoline with MTBE or TBA, or gasoline with MTBE or TBA.

12. The Company has never refined oil into gasoline or manufactured gasoline or any petroleum products.

13. The Company has never owned, leased or otherwise operated a gasoline refinery within the Commonwealth.

14. The Company has never owned a terminal facility or a gasoline pipeline within the Commonwealth.

15. Prior to November 2008, the Company did not operate a terminal facility within the Commonwealth.

16. Since November 2008, the Company leases a portion of a property located in the municipality of Guaynabo. The Puerto

Rico Land Administration (an instrumentality of the government of the Commonwealth of Puerto Rico) is the lessor and owner of the property. A portion of the Cataño Fuel Storage Facility leased to TPPRC includes a fuel storage terminal area.

17. Records and information available indicate that between 1992 and 1997 the Company's supply of gasoline was obtained from Idemitsu Apollo Corporation. Upon information and belief, Idemitsu Apollo Corporation bought gasoline imported and/or refined by others and that gasoline was sold to the Company for delivery to its gasoline stations. Under this scheme, the Company would lift and transport the fuel from the terminal or storage facility to the gasoline stations.

18. Records and information reviewed reflect that most of the gasoline purchased from Idemitsu Apollo Corporation was lifted from Phillips Puerto Rico Core, Inc.'s facility in Guayama ("Core Facility"). However, records indicate that some of the gasoline may have been purchased from Puerto Rico Sun Oil Company, Inc. and lifted from Peerless Oil & Chemicals, Inc.'s facility in Peñuelas.

19. Records reviewed also reflect that, at least since late-1997, in multiple instances the Company has entered into supply agreements with Caribbean Petroleum Corporation, and spot purchase agreements with Esso Standard Oil Co. (Puerto Rico),

Inc., Shell Chemical Yabucoa, Inc., Texaco Puerto Rico, Inc., Texaco International Trader, Inc., Peerless Oil & Chemicals, Inc., CITGO International Puerto Rico Company, and CITGO International Puerto Rico, Inc.

20. Records reviewed show that the gasoline supply for Company stations from August 2001 to October 2004 was purchased from CITGO International Puerto Rico Company. This gasoline was lifted from the Cataño Fuel Storage Facility, from the facility of the Commonwealth Oil Refining Company, located in the municipality of Guayanilla, and from the Core Facility in Guayama.

21. Company records reflect that between 2004 and 2008, the Company executed supply agreements with Shell Chemical Yabucoa, Inc.; Esso Standard Oil Co. (Puerto Rico), Inc.; Peerless Oil & Chemicals, Inc.; and Caribbean Petroleum Corporation. The Company has also entered into spot purchase agreements with Shell Chemical Yabucoa, Inc. and Peerless Oil & Chemicals, Inc.

22. From 2008 until 2012, the Company mostly received gasoline brought into the Commonwealth from Hovensa, LLC's refinery in St. Croix, U.S. Virgin Islands. Since 2010, the Company also has executed loan and borrow agreements with Puma Energy Puerto Rico, Inc. and Peerless Oil & Chemicals, Inc.



COMMONWEALTH OF PUERTO RICO V. SHELL OIL COMPANY, ET AL.

CASE NO. 07 CIV. 10470 (SAS)

**SUPPLIES OF GASOLINE TO TOTAL PETROLEUM
PUERTO RICO CORP'S SERVICE STATION 1012 IN
PUERTO RICO**

LEONARDO GIACCHINO, Ph.D.

SOLUTIONS ECONOMICS, LLC

Prepared on behalf of

Sepulvado & Maldonado, PSC

April 8, 2014

Supplies of Gasoline to Total Petroleum Puerto Rico Corp.'s Service Station 1012
Leonardo Giacchino, Ph.D.

B. Consolidation and Expansion of TPPRC

- (82) There were two parts in the 2004 purchase transaction. First, Total Outre-Mer, S.A., purchased GPR stock. Second, the Company acquired in 2004 additional assets from Sunshine Rentals Puerto Rico Inc., consisting of 20 service stations and operating equipment.³⁸
- (83) On November 1, 2008, TPPRC acquired Esso's operations in Puerto Rico.³⁹ This acquisition took the form of the purchase of a list of Esso assets in Puerto Rico as well as transportation and leasing contracts held by Esso. TPPRC acquired additional distribution to retailers on the island in addition to its wholesale business. It also acquired the leases to the Cataño and Guayanilla (CORCO, or Commonwealth Oil Refining Company, Inc.) facilities, although it stopped operating the CORCO facilities six months later.
- (84) Since November 2008, TPPRC supplies retailers bearing its brand using fuel that it imports to its storage locations.

C. Sources of Gasoline and Additive Content

- (85) Prior to the acquisition of Esso's assets in 2008, the geographic source of gasoline purchased by the Company and supplied to retailers is unknown, since the Company was not involved in the importation process. The Company was forced to purchase from various importers, although its degree of reliance on specific suppliers shifted over time.
- (86) Prior to 2008, the Company did not own storage assets and it has never been involved in the "blending" of oxygenates into the gasoline that was sold to retailers. As a result, the Company did not have information regarding the origin and the additive content of the gasoline purchased.
- (87) **Figure 5** shows a summary of the Company's suppliers of gasoline during the years it was an operator and a reseller. The Figure uses six time periods to classify the suppliers.

³⁸ Purchase and Sale Agreement for Stock and Assets by and between Máximo Álvarez and Sunshine Rentals Puerto Rico Inc., as Sellers, and Total Outre-Mer S.A. as Purchaser, September 16, 2004 (TPPRC.GENERAL_000677 – TPPRC.GENERAL_000735).

³⁹ "Total to Acquire ExxonMobil Caribbean Assets," BNA Americas, March 11, 2008.

Supplies of Gasoline to Total Petroleum Puerto Rico Corp.'s Service Station 1012
Leonardo Giacchino, Ph.D.

Figure 5: Suppliers of Gasoline

MTBE Content	No knowledge of MTBE content in gasoline supplied				No MTBE / Not Detected	
Suppliers	Phillips Sun Oil (via Idemitsu Apollo Corp.)	Texaco CAPECO ESSO Peerless Chevron Phillips	CITGO	Peerless CAPECO Shell Yabucoa ESSO	Trader (supplies from HOVENSA)	MTBE ban in effect
Date	3/20/1992	1/1/1997	8/13/2001	October 2004	11/1/2008	6/11/2012

- (88) The rest of this Subsection presents a detailed analysis of the suppliers of gasoline to the Company. This analysis is based primarily on my review of documentation which I received of sales contracts (contracts in which a seller agrees to sell a product at a certain price over a certain period of time and a buyer agrees to buy it at that price) signed between the Company and various suppliers. I also received and reviewed Bills of Lading which provide information on gasoline retrieved from the rack by the Company.

1. As an Operator and as a Reseller

- (89) While operating as a reseller, the Company did not have control of the composition of the gasoline that was bought from the importers. Resellers do not know the composition of the gasoline delivered to them. None of the documentation exchanged with suppliers for the purchase of gasoline indicated that the gasoline delivered contained MTBE. One contract in the early years indicated that gasoline could contain MTBE. The Company did not conduct sampling of the gasoline and could not refuse delivery of the supplies that it would deliver to the service stations. For example, Esso, a wholesaler with storage capacity that had a larger market share than the Company until 2008, did not test gasoline before resellers picked up gasoline at the rack: "Gasoline ultimately supplied by Esso to jobbers was not tested after it was delivered to Esso terminals in Puerto Rico."⁴⁰ Therefore, the Company did not know and was not aware of any MTBE content in the gasoline that would be supplied to service stations.
- (90) The function of reseller in Puerto Rico as an independent distributor is known in the US as "jobber."⁴¹ Jobbers are intermediaries and, as explained in **Section III.A.2**, buy supplies at the lowest price possible. As such, they do not sample the product because competition in the marketplace does not make it possible from an economic point of

⁴⁰ Declaration of Ricardo Casas, Esso Standard Oil (Puerto Rico)'s CMO #4 Declaration November 25, 2013, Response to Subsection III(B)(2)(i). Mr. Casas does not list TPPRC as a jobber but does list GPR. TPPRC had a contract with Esso in this period and the statement of no testing applies to all gasoline that was delivered to the Esso operated terminal.

⁴¹ Meyer, David; and Fischer, Jeffrey (2004): "The Economics of Price Zones and Territorial Restrictions in Gasoline Marketing," Federal Trade Commission, March, p. 2.

Supplies of Gasoline to Total Petroleum Puerto Rico Corp.'s Service Station 1012
Leonardo Giacchino, Ph.D.

view. Similarly to the food distributors analogy in **Section III.A.2**, resellers buy the product from wholesalers and distribute it to retailers, relying on documentation exchanged in the transactions and the supplier disclosures about gasoline content.

a. GPR: The Early Years Up to 1997

- (91) Between its entry in the marketplace on March 20, 1992 and November of 1997, when Law 157 came into effect, the Company received its supplies through Idemitsu Apollo Corporation (“Idemitsu”), the owner of the Company at that time. Idemitsu purchased gasoline from two suppliers, Phillips Puerto Rico Core Inc. (“Phillips”) and Sun Oil, and sold to it the Company for distribution to GPR’s service stations.^{42, 43} A Product Supply Agreement for the sale of gasoline from Phillips to Idemitsu for eight months beginning on February 1, 1994 illustrates this arrangement.⁴⁴ Prior to 1997, the Bills of Lading received by the Company also indicate that its principalsuppliers were Phillips and Sun Oil.⁴⁵
- (92) The only case of a document referring to MTBE which I reviewed is the February 1, 1994 supply contract between Phillips and Idemitsu, which indicates that the presence of MTBE in the gasoline supplied was “permissible”.⁴⁶ The documentation exchanged for the deliveries did not contain any specifics about the gasoline content, therefore, GPR was not aware of the content of the gasoline lifted from Phillips’ facility and delivered to service stations.

⁴² “Q. And during those years of 1992 to 1997, after Itemitsu [sic] Apollo Corporation purchased GPR and ISLA, was it buying or lifting that fuel from Phillips and Sun Oil and then selling it to GPR and ISLA? MR. COURET: Same objection. THE WITNESS: I can’t recall exactly what the terms where, but I think we worked differently during – but, yes, most of the time it was that way.” Deposition of Margaret King, October 24, 2013, p. 10, lines 6-14.

⁴³ “THE WITNESS: From 1992 to 1997 to try to narrow down the periods, we were supplied with the help of either Idemitsu Apollo Corporation, from the facilities in Sunoco, Sun Oil – Sun Oil or known as Sunoco, and ChevronPhillips Puerto Rico Core.” Deposition of Jan Carlos Rodríguez-Muñoz, October 25, 2013, p. 59, lines 2-8.

⁴⁴ Product Supply Agreement between Idemitsu Apollo Corporation and Phillips Puerto Rico Core Inc., February 1, 1994 (TPPRC.SUPPLY_001111 - TPPRC.SUPPLY_001127).

⁴⁵ The Bills of Lading from January 1995 to December 1996 indicate liftings of gasoline from “Peerless Oil”, referring to gasoline purchased from Sun Oil stored at a Peerless Oil facility: “Q. And was it [Idemitsu] also lifting or purchasing gasoline from Sun Oil at the Peerless Oil and Chemical Plant at Peñuelas? MR. COURET: Objection, form. It’s a compound question. And I also object to the extent it requires a legal opinion. You may answer. THE WITNESS: Yes.” Deposition of Margaret King, October 24, 2013, p. 19, line 21 – p. 20, line 4.

⁴⁶ Product Supply Agreement between Idemitsu Apollo Corporation and Phillips Puerto Rico Core Inc., February 1, 1994, Addendum A (TPPRC.SUPPLY_001127).

Supplies of Gasoline to Total Petroleum Puerto Rico Corp.'s Service Station 1012
Leonardo Giacchino, Ph.D.

- (113) On October 21, 2004, GPR purchased Service Station 1012 from Sunshine Rentals Puerto Rico, Inc., pursuant to the Purchase and Sale Agreement signed between Máximo Álvarez and Sunshine Rentals Puerto Rico, Inc. as sellers and Total Outre-Mer, S.A. and GPR as purchasers on September 16, 2004.⁸⁵ As described in **Section IV.C** above, Law 157 prevents wholesalers of gasoline from operating service stations.⁸⁶ As a result, Service Station 1012 has not been operated by TPPRC after 1998, but has been leased by separate entities that conduct the service station's retail operations.
- (114) Service Station 1012 was a company operated service station until 1998. Service Station 1012 was operated by Bartolo, Inc. from April of 1998 to February of 2003. From February of 2003 to March of 2007, Service Station 1012 was operated by Q&M Distributors, Inc. It was operated by I.B.T. Investments Corp. from April of 2007 until May of 2010. Gas Inc. began operating Service Station 1012 in June of 2010 until the present.⁸⁷ The retailer operating the service station, who is permitted to use the "TOTAL" brand, purchases its supply of gasoline from TPPRC. The amounts supplied to the service station are summarized in letters known as "*Cartas de Galonaje*".
- (115) A review of the documentation received shows no indication as to the gasoline content of the deliveries or the existence of MTBE. The Company supplied Service Station 1012 with gasoline for which the Company did not know its content. Based on the competitiveness of the market, there was no economic incentive to test the content before or after delivery of the gasoline to service stations.

I reserve the right to amend these opinions if subsequent information becomes available in the future. I solemnly declare upon my honor and conscience that my statement is in accordance with my sincere belief.



Leonardo R. Giacchino, Ph. D.

⁸⁵ Deed of Purchase and Sale (Station 1012), October 21, 2004 (TPPRC.SS1012_001266 - TPPRC.SS1012_001272). This is the same day that the shares of GPR were acquired by Total Outre-Mer S.A., so the name of the purchaser is Gasolinas de Puerto Rico Corporation, as the change of the company's name to TPPRC had not taken place yet.

⁸⁶ Law 157/96, p. 2.

⁸⁷ Letters from TPPRC to Q&M Distributors, Inc., I.B.T. Investments Corp., and Gas Inc. on annual gasoline purchases by Station 1012 between January 1, 2006 and June 30, 2013, dated 4/17/12, 5/11/12, 1/10/13, and 7/2/13 (TPPRC.SS.RETAIL_000789 - TPPRC.SS.RETAIL_001095); and summary by TPPRC for sales of gasoline to Station 1012 between May 30, 2008 and June 29, 2013.

Exhibit 6

Confidential (Per 2004 MDL 1358 Order)

Page 1

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- - -

IN RE: METHYL TERTIARY BUTYL : MASTER FILE NO.
ETHER ("MTBE") PRODUCTS : 1:00-1898
LIABILITY LITIGATION : MDL 1358 (SAS):
: No. M21-88

This Document Relates to: :
:
Commonwealth of Puerto :
Rico, et al. : Case No.
v. : 07-CIV-10470(SAS)
Shell Oil Co., et al. :

- - -

CONFIDENTIAL (PER 2004 MDL 1358 ORDER)
THIS TRANSCRIPT CONTAINS CONFIDENTIAL DOCUMENT(S),
INFORMATION OR OTHER THINGS

The videotaped deposition of:

MARGARET KING,

was held at the law offices of Sepulvado & Maldonado,
252 Ponce De Leon Avenue, San Juan, Puerto Rico, on
Thursday, October 24, 2013, at 9:03 a.m.

Reported by: Wendy Alcock, RPR
Registered Professional Reporter

Confidential (Per 2004 MDL 1358 Order)

<p style="text-align: right;">Page 10</p> <div style="border: 1px solid red; height: 250px; margin-bottom: 10px;">REDACTED</div> <p><u>19</u> <u>Q. When did you retire?</u> <u>20</u> <u>A. In March of 2010.</u> <u>21</u> <u>Q. When you retired in March of 2010 what</u> <u>22</u> <u>company were you working for that you retired from?</u> <u>23</u> <u>A. Total Petroleum Puerto Rico Corp.</u></p> <div style="border: 1px solid red; height: 20px;">REDACTED</div>	<p style="text-align: right;">Page 12</p> <p><u>1</u> <u>Rico employee.</u></p> <div style="border: 1px solid red; height: 350px;">REDACTED</div>
<p style="text-align: right;">Page 11</p> <div style="border: 1px solid red; height: 280px; margin-bottom: 10px;">REDACTED</div> <p><u>20</u> <u>A. When I started with -- it was a group of</u> <u>21</u> <u>companies. And when I started there in 1983, I was</u> <u>22</u> <u>under contract with ISLA Petroleum Corporation.</u> <u>23</u> <u>Sometime during the '90s it was merged with Gasolinas</u> <u>24</u> <u>de Puerto Rico and so I became a Gasolinas de Puerto</u></p>	<p style="text-align: right;">Page 13</p> <div style="border: 1px solid red; height: 350px;">REDACTED</div>

4 (Pages 10 to 13)

Confidential (Per 2004 MDL 1358 Order)

<p style="text-align: right;">Page 26</p> <div style="border: 1px solid red; height: 380px; margin-top: 10px; display: flex; align-items: center; justify-content: center; color: red; font-weight: bold; font-size: 1.2em;">REDACTED</div>	<p style="text-align: right;">Page 28</p> <p><u>1</u> <u>A. I was an officer of the corporation.</u></p> <div style="border: 1px solid red; height: 100px; margin-top: 5px; display: flex; align-items: center; justify-content: center; color: red; font-weight: bold; font-size: 1.2em;">REDACTED</div> <p><u>9</u> <u>Q. And at the time of the 2004 acquisition by</u> <u>10 Total, did you then get new duties or a new position</u> <u>11 with Total?</u> <u>12</u> <u>A. Yes.</u> <u>13</u> <u>Q. And what was your new position with Total?</u> <u>14</u> <u>A. I was administrative director.</u></p> <div style="border: 1px solid red; height: 150px; margin-top: 10px;"></div>
<p style="text-align: right;">Page 27</p> <div style="border: 1px solid red; height: 320px; margin-top: 10px; display: flex; align-items: center; justify-content: center; color: red; font-weight: bold; font-size: 1.2em;">REDACTED</div> <p><u>22</u> <u>Q. Did you take on any additional</u> <u>23 responsibilities or positions other than controller</u> <u>24 during that time frame of 1989 to 1990 until 2004?</u></p>	<p style="text-align: right;">Page 29</p> <div style="border: 1px solid red; height: 380px; margin-top: 10px; display: flex; align-items: center; justify-content: center; color: red; font-weight: bold; font-size: 1.2em;">REDACTED</div>

8 (Pages 26 to 29)

Confidential (Per 2004 MDL 1358 Order)

<p style="text-align: right;">Page 110</p> <div style="border: 1px solid red; height: 300px; margin: 10px 0;">REDACTED</div> <p><u>24</u> Q. Okay. So if I understand what you've just</p>	<p style="text-align: right;">Page 112</p> <div style="border: 1px solid red; height: 300px; margin: 10px 0;">REDACTED</div>
<p style="text-align: right;">Page 111</p> <p><u>1</u> told me, the first time that you heard about MTBE was</p> <p><u>2</u> when some legal documents were delivered to the office</p> <p><u>3</u> where you were at TPPRC; is that right?</p> <p><u>4</u> A. Yes.</p> <p><u>5</u> Q. And do you recall what year that was?</p> <p><u>6</u> A. 2009 maybe.</p> <p><u>7</u> Q. Okay.</p> <p><u>8</u> A. I don't really remember.</p> <p><u>9</u> Q. So before 2009, in your years in the</p> <p><u>10</u> gasoline business from 1983 to 2009, you had not heard</p> <p><u>11</u> anything about MTBE?</p> <p><u>12</u> A. No, I had never heard anything about it.</p> <p><u>13</u> Q. Okay. Since first hearing about it in 2009,</p> <p><u>14</u> other than any discussions you may have had with any</p> <p><u>15</u> lawyers, have you learned anything about MTBE?</p> <p><u>16</u> A. I'm sorry to say that, no. I've read</p> <p><u>17</u> articles in the newspaper every time there's somebody</p> <p><u>18</u> added or subtracted from the lawsuit. But, no.</p> <p><u>19</u> Q. Okay. So it sounds like perhaps the only</p> <p><u>20</u> exposure you've had to information about MTBE would be</p> <p><u>21</u> related to the lawsuit that brings us here today, and</p> <p><u>22</u> perhaps reading about it in the newspapers; is that</p> <p><u>23</u> accurate?</p> <p><u>24</u> A. That's true.</p>	<p style="text-align: right;">Page 113</p> <div style="border: 1px solid red; height: 300px; margin: 10px 0;">REDACTED</div>

29 (Pages 110 to 113)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE: METHYL TERTIARY BUTYL *
ETHER ("MTBE") PRODUCTS
LIABILITY LITIGATION *

Master File
No. 1:00-1898

COMMONWEALTH OF PUERTO RICO, *
et al., *

MDL 1358 (SAS)
M21-88

Plaintiffs, *

vs. *

Defendants. *

Case No. 07-CIV-10470 (SAS)

The videotape deposition of:

ENRIQUE A. VEGLIO-MATOS,

a former Total Service Station Operator, and a
Non-Party Witness herein, was held at the DEPARTMENT OF
JUSTICE FOR THE COMMONWEALTH OF PUERTO RICO, Ninth
Floor, Olimpo Street, San Juan, Puerto Rico 00907, on
Tuesday, July 9, 2013, at 9:19 a.m.

<p style="text-align: right;">81</p> <p>1 And after calling the company, did the</p> <p>2 instruction sheet tell you anything else to do?</p> <p>3 A. Yeah.</p> <p>4 MS. ORTIZ: Objection to form.</p> <p>5 THE DEPONENT: Everything depends on what</p> <p>6 is the problem. You call the police, call the</p> <p>7 Fire Department, call the emergencies ambulance,</p> <p>8 whatever--</p> <p>9 BY MS. O'REILLY:</p> <p>10 Q. Right.</p> <p>11 A. --in case of emergency, you know. Yes, we</p> <p>12 did have it.</p> <p>13 Q. What if it was like a customer, you know,</p> <p>14 spilled gasoline on the ground? Did it have</p> <p>15 instructions what to do there?</p> <p>16 MS. ORTIZ: Objection to form.</p> <p>17 THE DEPONENT: Okay. Okay. Okay. I</p> <p>18 know. I know what you want.</p> <p>19 Yes, we had sand, a bag of special sand</p> <p>20 bag. You know--</p> <p>21 BY MS. O'REILLY:</p> <p>22 Q. Okay.</p> <p>23 A. --not regular sand from any place, that</p> <p>24 you had to buy it. It used to cost me around \$5 a pail</p> <p>25 of-- a sack of sand, special sand, that we are going to</p>	<p style="text-align: right;">83</p> <p>1 There you have one and you didn't know it.</p> <p>2 Q. That's a big one. Wow.</p> <p>3 A. You can check with the-- because you pass</p> <p>4 through the Eleanor Roosevelt, through the Roosevelt to</p> <p>5 the avenue, you see all of these guys in white.</p> <p>6 Q. Gasoline can--</p> <p>7 A. You see it in white. Every time that</p> <p>8 somebody takes that, that's \$20.</p> <p>9 Q. When you had the Pineiro station when you</p> <p>10 were with GPR, did they tell you that even five or ten</p> <p>11 gallons of gasoline spilled could contaminate the water</p> <p>12 underneath the station?</p> <p>13 A. Yes.</p> <p>14 MS. ORTIZ: Objection to form.</p> <p>15 THE DEPONENT: Yes. Any spill.</p> <p>16 BY MS. O'REILLY:</p> <p>17 Q. Did they tell you that even five to ten</p> <p>18 gallons can contaminate the water that goes to people's</p> <p>19 drinking?</p> <p>20 MS. ORTIZ: Objection to form.</p> <p>21 THE DEPONENT: As long as you are to any</p> <p>22 (through the interpreter) body, body of water.</p> <p>23 (In English) Yeah.</p> <p>24 BY MS. O'REILLY:</p> <p>25 Q. Even the water underground?</p>
<p style="text-align: right;">82</p> <p>1 throw it over, and then call the company to come out</p> <p>2 and clean. And we had the Pampers, we have Pampers</p> <p>3 too, that we used to throw the Pampers too to the spill</p> <p>4 and after we did everything, Pampers, sand, call the</p> <p>5 company, they company comes and finished the cleaning.</p> <p>6 Q. Okay.</p> <p>7 A. And it all depends on the amount of spill.</p> <p>8 For example, in Country Club, a station there lost</p> <p>9 about 300 gallons. So they had to call the emergencies</p> <p>10 of, you know, the federal government go over there,</p> <p>11 clean everything. The gasoline went into a river near</p> <p>12 it.</p> <p>13 In the Fernandez-- in the Eleanor Roosevelt</p> <p>14 there was a disaster for the people of the Esso, okay?</p> <p>15 They were changing a tank. To prove it they filled it</p> <p>16 up with gasoline, and to level it, to make it level,</p> <p>17 they fill it up with gasoline instead of filling it</p> <p>18 with water, like they were supposed to.</p> <p>19 Q. Right.</p> <p>20 A. And the-- a tractor came in and tried to</p> <p>21 lift it to level it and it cracked in half. So the</p> <p>22 10,000 gallons of gasoline went down the street and</p> <p>23 went down to El Matadero and behind El Matadero there</p> <p>24 is a big river and they ended down there. I don't know</p> <p>25 how many millions of dollars it cost to the Esso.</p>	<p style="text-align: right;">84</p> <p>1 A. Even the water underground.</p> <p>2 <u>Q. Do you recall if GPR told you about MTBE</u></p> <p>3 <u>in the gasoline?</u></p> <p>4 <u>MS. ORTIZ: Objection to form.</u></p> <p>5 <u>BY MS. O'REILLY:</u></p> <p>6 <u>Q. MTBE.</u></p> <p>7 <u>A. No. That's one of the formulas. No, they</u></p> <p>8 <u>never teach us-- tell us anything about formulas.</u></p> <p>9 <u>That, any formula, we had to learn about it.</u></p> <p>10 COUNSEL ON THE PHONE: I apologize. What</p> <p>11 was that last response from the deponent?</p> <p>12 THE REPORTER: "That formula, we had to</p> <p>13 learn about it."</p> <p>14 THE DEPONENT: The MTBE, I don't know what</p> <p>15 is it.</p> <p>16 BY MS. O'REILLY:</p> <p>17 Q. Okay. And did you ever learn that even</p> <p>18 drips and drops, little drips, you know, when a</p> <p>19 customer takes the hose out there's sometimes a drip of</p> <p>20 gasoline, have you seen that, like a drop?</p> <p>21 A. A drop in where?</p> <p>22 Q. Comes from the hose onto the grand when</p> <p>23 you take the hose out of the car.</p> <p>24 A. Yeah, I've seen it. You know, it's not</p> <p>25 normal, but you see it.</p>

<p style="text-align: right;">85</p> <p>1 Q. Were you aware that even those small drops</p> <p>2 could contaminate the water?</p> <p>3 MS. ORTIZ: Objection to form.</p> <p>4 THE REPORTER: I'm sorry. Could you</p> <p>5 repeat that question.</p> <p>6 BY MS. O'REILLY:</p> <p>7 Q. Were you aware that even those small drops</p> <p>8 could contaminate the water?</p> <p>9 MS. ORTIZ: Objection to form.</p> <p>10 THE DEPONENT: It depends on the amount of</p> <p>11 water. If I put a drop of gasoline here, it</p> <p>12 would taste me bad. But if I put a drop of</p> <p>13 gasoline in a pool, I wouldn't notice.</p> <p>14 BY MS. O'REILLY:</p> <p>15 Q. Well, were you told that if you put a drop</p> <p>16 of MTBE in a pool all of the water would taste bad?</p> <p>17 MS. ORTIZ: Objection to form.</p> <p>18 MR. LUTZ: Objection to form.</p> <p>19 THE DEPONENT: What is that?</p> <p>20 BY MS. O'REILLY:</p> <p>21 Q. MTBE was added to the gasoline. Were you</p> <p>22 told that?</p> <p>23 MS. ORTIZ: Objection to form.</p> <p>24 MR. LUTZ: Objection to form.</p> <p>25 MS. CIPRIANO: Objection to form.</p>	<p style="text-align: right;">87</p> <p>1 <u>would you do that?</u></p> <p>2 <u>MS. ORTIZ: Objection to form.</u></p> <p>3 <u>MR. LUTZ: Objection to form.</u></p> <p>4 <u>MS. CIPRIANO: Objection to form.</u></p> <p>5 <u>THE DEPONENT: I don't know. I don't know</u></p> <p>6 <u>if I can-- I could, you know-- if I can prevent</u></p> <p>7 <u>it. I would try to prevent it, but I don't know</u></p> <p>8 <u>if I could prevent it.</u></p> <p>9 BY MS. O'REILLY:</p> <p>10 Q. Is that because gasoline tanks in your</p> <p>11 experience, there's always a leak from the tanks or the</p> <p>12 dispensers?</p> <p>13 MS. ORTIZ: Objection to form.</p> <p>14 MR. LUTZ: Objection to form.</p> <p>15 THE DEPONENT: Any question that refers,</p> <p>16 you know, to that, to the technicism on that, I</p> <p>17 can't answer that.</p> <p>18 BY MS. O'REILLY:</p> <p>19 Q. Were there any-- were you ever told that</p> <p>20 there were any even small leaks from the tanks or the</p> <p>21 dispensers at the Pineiro station?</p> <p>22 MS. ORTIZ: Objection to form.</p> <p>23 THE DEPONENT: There were-- as far as I</p> <p>24 know, and by the inventory that I used to take,</p> <p>25 there were never leaks in Pineiro.</p>
<p style="text-align: right;">86</p> <p>1 THE DEPONENT: That's an additive.</p> <p>2 BY MS. O'REILLY:</p> <p>3 Q. Yes.</p> <p>4 A. Okay. That's different. I know that they</p> <p>5 put additive to the gasoline. Now, which kind of</p> <p>6 additive they put in, that I don't know.</p> <p>7 <u>Q. Okay.</u></p> <p>8 <u>So you wouldn't have been told that, for</u></p> <p>9 <u>example, only a drop of MTBE could make a whole pool of</u></p> <p>10 <u>water taste bad. You were never told that.</u></p> <p>11 <u>MS. CIPRIANO: Objection to form.</u></p> <p>12 <u>MS. ORTIZ: Objection to form.</u></p> <p>13 <u>THE DEPONENT: No.</u></p> <p>14 BY MS. O'REILLY:</p> <p>15 Q. Would you want your neighbors to drink</p> <p>16 water that had contamination from your gasoline station</p> <p>17 in it?</p> <p>18 A. No.</p> <p>19 MR. LUTZ: Objection to form.</p> <p>20 MS. ORTIZ: Objection to form.</p> <p>21 BY MS. O'REILLY:</p> <p>22 <u>Q. And if there were special extra procedures</u></p> <p>23 <u>that you could take, extra precautions, extra safety</u></p> <p>24 <u>precautions that you could take so that your gasoline</u></p> <p>25 <u>and the MTBE didn't get into your neighbors' water,</u></p>	<p style="text-align: right;">88</p> <p>1 BY MS. O'REILLY:</p> <p>2 Q. After they replaced the tanks and the</p> <p>3 pipes and the dispensers, did they do any other repairs</p> <p>4 to the tanks in the system later on that you recall?</p> <p>5 A. After they changed it?</p> <p>6 Q. Yeah.</p> <p>7 A. No.</p> <p>8 Q. So no repairs or maintenance work?</p> <p>9 MS. ORTIZ: Objection to form.</p> <p>10 THE DEPONENT: Well, maintenance, but no--</p> <p>11 I mean, no repairs. No taking one and put</p> <p>12 another one.</p> <p>13 BY MS. O'REILLY:</p> <p>14 Q. Okay.</p> <p>15 A. Because they were new. And I left about</p> <p>16 one year after that, so...</p> <p>17 Q. Okay.</p> <p>18 Before they-- but when you-- when Bartolo first</p> <p>19 took over the Pineiro station--</p> <p>20 A. Uh-huh.</p> <p>21 Q. --did they-- in between that time and when</p> <p>22 they replaced the tanks, did they come out and do</p> <p>23 repairs or maintenance on the system?</p> <p>24 MS. ORTIZ: Objection to form.</p> <p>25 THE DEPONENT: Yes, they did.</p>

Exhibit 7

<p>UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK</p> <p>IN RE: METHYL TERTIARY BUTYL * Master File ETHER ("MTBE") PRODUCTS No. 1:00-1898 LIABILITY LITIGATION * ----- MDL 1358 (SAS) COMMONWEALTH OF PUERTO RICO, * M21-88 et al.,</p> <p style="text-align: center;">* Plaintiffs, * vs. * Defendants. *</p> <p>Case No. 07-CIV-10470 (SAS)</p> <p>----- The videotape deposition of: ANTONIO R. PAVIA, a former Total Service Station Operator, and a Non-Party Witness herein, was held at the DEPARTMENT OF JUSTICE FOR THE COMMONWEALTH OF PUERTO RICO, Ninth Floor, Olimpo Street, San Juan, Puerto Rico 00907, on Wednesday, June 12, 2013, at 2:07 p.m.</p>	<p style="text-align: right;">3</p> <p>APPEARANCES (Continued) COUNSEL FOR CODEFENDANT IDEMITSU APOLLO CORPORATION</p> <p>BOWMAN and BROOKE, LLP 150 South Fifth Street, Suite 3000 Minneapolis, Minnesota 55402 BY: DAVID N. LUTZ, ESQ. 612.339.8682 david.lutz@bowmanandbrooke.com COUNSEL FOR CODEFENDANTS CITGO EIMER STAHL, LLP 224 S. Michigan Avenue, Suite 1100 Chicago, Illinois 60604 BY: SHELLY GEPPERT, ESQ. 312.660.7629 sgeppert@eimerstahl.com</p> <p>COUNSEL FOR CODEFENDANT ESSO STANDARD OIL PUERTO RICO and EXXON MOBILE CORPORATION ARCHER & GREINER, PC One Centennial Square Haddonfield, New Jersey 08033 BY: DANIEL R. FERINO, ESQ. (Appearing telephonically) 856.354.3073 dferino@archerlaw.com COUNSEL FOR CODEFENDANT PC PUERTO RICO, LLC KING & SPALDING 1100 Louisiana, Suite 4000 Houston, Texas 77002 BY: HELEINA L. FORMOSO, ESQ. (Appearing telephonically) 713.751.3200 hformoso@kslaw.com</p>
<p style="text-align: right;">2</p> <p>APPEARANCES COUNSEL FOR THE PLAINTIFFS MILLER, AXLINE & SAWYER 1050 Fulton Avenue, Suite 100 Sacramento, California 95825 BY: TRACEY L. O'REILLY, ESQ. 916.488.6688 toreilly@toxic torts.org</p> <p style="text-align: center;">- and -</p> <p>ORLANDO H. MARTINEZ-ECHEVARRIA, ESQ. Centro de Seguros Building, Suite 413 701 Ponce de Leon Avenue San Juan, Puerto Rico 00907 (Also acting as Notary Public) 787.722.2378 omartinez@martinezlaw.org</p> <p>COUNSEL FOR CODEFENDANT CHEVRON PHILLIPS PUERTO RICO CHEMICAL CORP. PIETRANTONI, MENDEZ & ALVAREZ, LLC Banco Popular Center, 19th Floor 208 Ponce de Leon Avenue San Juan, Puerto Rico 00918 BY: ISABEL C. FRAU-NICOLE, ESQ. 787.773.6000 ifrau@pmlaw.com COUNSEL FOR CODEFENDANT TOTAL PETROLEUM PUERTO RICO CORP.</p> <p>SEPULVADO & MALDONADO, PSC Citibank Tower, 19th Floor 252 Ponce de Leon Avenue San Juan, Puerto Rico 00918 BY: DELIRIS ORTIZ-TORRES, ESQ. 787.765.5656 dortiz@smlawpr.com</p>	<p style="text-align: right;">4</p> <p>APPEARANCES (Continued) COUNSEL FOR CODEFENDANT PETROBAS AMERICA, INC. THOMPSON & KNIGHT, LLP 98 San Jacinto Boulevard, Suite 1900 Austin, Texas 78701 BY: CHRISTOPHER D. SMITH, ESQ. (Appearing telephonically) 512.469.6108 Chris.Smith@tklaw.com</p> <p>VIDEOGRAPHER MS. SANDRA SUAREZ INTERPRETER MS. EDIE NUNEZ COURT REPORTER JOANNE de THOMAS</p>

<p style="text-align: right;">13</p> <p>1 Let me go ahead and I'm going to mark this</p> <p>2 notice of deposition.</p> <p>3 THE REPORTER: This would be one.</p> <p>4 (The document is marked for purposes of</p> <p>5 identification as Deposition Exhibit</p> <p>6 No. 1.)</p> <p>7 BY MS. O'REILLY:</p> <p>8 Q. <u>And the deposition notice in the beginning</u></p> <p>9 <u>says, "Deponent is believed to be associated with</u></p> <p>10 <u>Total 1012 (formerly GPR) Central Avenue No. 26, San</u></p> <p>11 <u>Juan, Puerto Rico."</u></p> <p>12 <u>Do you see that? It's on the very first right</u></p> <p>13 <u>front. There (indicating).</u></p> <p>14 A. <u>Yes.</u></p> <p>15 Q. <u>And were you associated with that station</u></p> <p>16 <u>at one point in time?</u></p> <p>17 A. <u>Yes.</u></p> <p>18 Q. <u>And what time period were you associated</u></p> <p>19 <u>with that station?</u></p> <p>20 A. <u>(Through the interpreter) From</u></p> <p>21 <u>approximately 1998 to 2006.</u></p> <p>22 Q. <u>And what was your association with the</u></p> <p>23 <u>station during that time period?</u></p> <p>24 A. <u>I was the operator.</u></p> <p>25 Q. Did you personally operate the station on</p>	<p style="text-align: right;">15</p> <p>1 when you were the operator?</p> <p>2 A. Jorge Ortiz.</p> <p>3 Q. Was he the last manager that you had for</p> <p>4 the station, do you recall?</p> <p>5 A. I don't think so.</p> <p>6 Q. Does he still work for you?</p> <p>7 A. No.</p> <p>8 Q. When was the last time he was employed by</p> <p>9 you?</p> <p>10 A. Around 2003, 2004.</p> <p>11 Q. Did he work at other stations as well as</p> <p>12 the one on Central Avenue?</p> <p>13 A. No. Originally, he was the store</p> <p>14 supervisor and after that, when we eliminated the</p> <p>15 position, we assigned him to that store as manager.</p> <p>16 Q. And what were his responsibilities as</p> <p>17 manager of the station?</p> <p>18 A. He supervised the employees, he kept the</p> <p>19 store up to date with products, he was in charge of the</p> <p>20 cleaning, he bought merchandise, he ordered gasoline.</p> <p>21 Q. Anything else?</p> <p>22 A. I don't think so.</p> <p>23 Q. Did Mr. Ortiz, or any other manager, have</p> <p>24 responsibility for maintenance of the gasoline system,</p> <p>25 the tanks or the dispensers?</p>
<p style="text-align: right;">14</p> <p>1 a day-to-day basis, or did you have employees?</p> <p>2 A. We had a manager and a supervisor.</p> <p>3 Q. Was the manager at the station every day?</p> <p>4 A. Yes.</p> <p>5 Q. And did you have more than one manager</p> <p>6 from 1998 to 2006?</p> <p>7 A. Yes.</p> <p>8 Q. Who was the name of-- what was the name of</p> <p>9 your first manager for the station?</p> <p>10 A. I don't recall.</p> <p>11 Q. Let me just let you know too it's okay-- I</p> <p>12 know these events occurred a long time ago and</p> <p>13 sometimes you won't remember, but if later today as</p> <p>14 we're talking you remember in response to a different</p> <p>15 question, or I show you a document, please let me know,</p> <p>16 let the translator know, so that we can put that</p> <p>17 information on the record, okay?</p> <p>18 A. (In English) Okay. (Through the</p> <p>19 interpreter) All right.</p> <p>20 Q. Well, do you recall the name of the second</p> <p>21 manager that you had for that station during the time</p> <p>22 period when you were the operator?</p> <p>23 A. No.</p> <p>24 Q. And do you recall the name of any manager</p> <p>25 that you had for that station during the time period</p>	<p style="text-align: right;">16</p> <p>1 MS. ORTIZ: Objection to form.</p> <p>2 THE DEPONENT: (To Ms. Ortiz) Did you say</p> <p>3 you objected?</p> <p>4 MS. ORTIZ: Yes, but it's just for the</p> <p>5 court reporter.</p> <p>6 BY MS. O'REILLY:</p> <p>7 Q. Let me explain. Any-- at times today when</p> <p>8 maybe some other lawyers or I ask questions, people</p> <p>9 will object. That's just for the written record. You</p> <p>10 can answer the question. You can go ahead and answer</p> <p>11 my question or her question or anyone else's question.</p> <p>12 it's just for the court reporter, okay?</p> <p>13 A. Yes. Would you repeat the question.</p> <p>14 Q. Certainly.</p> <p>15 <u>My question was did Mr. Ortiz, or any of your</u></p> <p>16 <u>other managers, have responsibility for maintaining the</u></p> <p>17 <u>dispensers or the pipes or the tanks, the gasoline</u></p> <p>18 <u>system.</u></p> <p>19 <u>MS. ORTIZ: Same objection.</u></p> <p>20 <u>THE DEPONENT: Not mechanically. In terms</u></p> <p>21 <u>of the-- cleaning the dispensers or changing the</u></p> <p>22 <u>hoses or the nozzles, yes.</u></p> <p>23 BY MS. O'REILLY:</p> <p>24 Q. <u>When you say "cleaning the dispensers,"</u></p> <p>25 <u>what did you mean?</u></p>

<p style="text-align: right;">17</p> <p>1 <u>MS. ORTIZ: Objection to form.</u></p> <p>2 <u>THE DEPONENT: Dust the pumps off.</u></p> <p>3 <u>BY MS. O'REILLY:</u></p> <p>4 <u>Q. Did Mr. Ortiz, or any of your managers,</u></p> <p>5 <u>change the filters inside the dispensers?</u></p> <p>6 <u>A. I don't think so.</u></p> <p>7 <u>Q. If the filters inside the dispensers</u></p> <p>8 <u>needed to be changed, or if there was something broken,</u></p> <p>9 <u>what would your manager do?</u></p> <p>10 <u>A. They would call the operations department</u></p> <p>11 <u>of Gasolinas de Puerto Rico.</u></p> <p>12 <u>Q. And when they called the-- Gasolinas de</u></p> <p>13 <u>Puerto Rico, what would the company do?</u></p> <p>14 <u>A. I imagine they would send-- they would</u></p> <p>15 <u>send a technician.</u></p> <p>16 <u>Q. And the technician would perform the</u></p> <p>17 <u>maintenance on the system and make repairs?</u></p> <p>18 <u>MS. ORTIZ: Objection to form.</u></p> <p>19 <u>THE DEPONENT: Yes.</u></p> <p>20 <u>BY MS. O'REILLY:</u></p> <p>21 <u>Q. Did they-- did Gasolinas de Puerto Rico</u></p> <p>22 <u>charge you for those repairs or maintenance?</u></p> <p>23 <u>A. I don't recall.</u></p> <p>24 <u>Q. When-- in 1998, did you buy the property</u></p> <p>25 <u>where the gasoline station was located?</u></p>	<p style="text-align: right;">19</p> <p>1 of the wholesale companies that operated service</p> <p>2 stations as retailers sold the rights to</p> <p>3 operate.</p> <p>4 In our case, this particular station was</p> <p>5 offered to us by the then president of Gasolinas</p> <p>6 de Puerto Rico, Rafael Toro.</p> <p>7 MS. GEPPERT: Can I just ask.</p> <p>8 (To the interpreter) Can you speak up a</p> <p>9 little bit. I'm having trouble. Thank you.</p> <p>10 THE INTERPRETER: Sure.</p> <p>11 BY MS. O'REILLY:</p> <p>12 Q. Did you know Mr. Toro?</p> <p>13 A. Yes.</p> <p>14 Q. How did you know him?</p> <p>15 A. Because in 1997 we acquired the rights to</p> <p>16 operate an additional two stations, one in Levittown</p> <p>17 and one in Guaynabo. In that transaction, Mr. Toro</p> <p>18 acted as the representative of the company that sold us</p> <p>19 the right to operate.</p> <p>20 Q. Were those the first gasoline stations you</p> <p>21 and your company had ever operated, the first two that</p> <p>22 you bought?</p> <p>23 A. The first two that we bought.</p> <p>24 Q. How did you come to buy the first two?</p> <p>25 A. We paid for some rights to operate.</p>
<p style="text-align: right;">18</p> <p>1 MS. ORTIZ: Objection to form.</p> <p>2 THE DEPONENT: No. We bought the rights</p> <p>3 to operate.</p> <p>4 BY MS. O'REILLY:</p> <p>5 Q. So who owned the property to your</p> <p>6 knowledge where the gasoline station was located?</p> <p>7 A. I think it was a sister company of</p> <p>8 Gasolinas de Puerto Rico.</p> <p>9 Q. Do you remember the name?</p> <p>10 A. No, but if you go to the Registrar, the</p> <p>11 name should appear there of who the owner was.</p> <p>12 Q. And who owned the buildings and the</p> <p>13 gasoline system to your understanding at the station?</p> <p>14 A. I don't know whether it was GPR or the</p> <p>15 sister company.</p> <p>16 Q. But it was the company. Not you.</p> <p>17 MS. ORTIZ: Objection to form.</p> <p>18 THE DEPONENT: No, not me.</p> <p>19 BY MS. O'REILLY:</p> <p>20 Q. How did you come to buy the operations of</p> <p>21 the station on Central?</p> <p>22 MS. ORTIZ: Objection to form.</p> <p>23 THE DEPONENT: A law had been enacted that</p> <p>24 in 1998 the wholesalers would not be able to</p> <p>25 operate service stations as retailers. So all</p>	<p style="text-align: right;">20</p> <p>1 Q. Did you have any experience in the</p> <p>2 gasoline industry before you bought the stations?</p> <p>3 A. No, but we had a partner who was an</p> <p>4 operator of Gasolinas de Puerto Rico whose name is</p> <p>5 Enrique Veglio, V-E-G-L-I-O, second surname, "Matos."</p> <p>6 Q. Did he work for Gasolinas de Puerto Rico?</p> <p>7 MS. ORTIZ: Objection to form.</p> <p>8 THE DEPONENT: No. He was the owner of a</p> <p>9 property at the Mario Julia Industrial Ward</p> <p>10 where there was a Gasolinas de Puerto Rico</p> <p>11 station.</p> <p>12 BY MS. O'REILLY:</p> <p>13 Q. And he operated that station?</p> <p>14 MS. ORTIZ: Objection to form.</p> <p>15 THE DEPONENT: Yes.</p> <p>16 BY MS. O'REILLY:</p> <p>17 Q. When did he first operate that station?</p> <p>18 Do you recall?</p> <p>19 MS. ORTIZ: Objection to form.</p> <p>20 THE DEPONENT: No.</p> <p>21 BY MS. O'REILLY:</p> <p>22 Q. The name of your company is "Bartolo"?</p> <p>23 A. Yes.</p> <p>24 Q. What was the business of Bartolo before</p> <p>25 you bought gasoline stations?</p>

<p style="text-align: right;">21</p> <p><u>1</u> A. None. Bartolo was created to acquire <u>2</u> these two stations. <u>3</u> Q. Did you have-- how many partners did you <u>4</u> have in Bartolo when you created it? <u>5</u> A. Five. <u>6</u> Q. And who were your partners? <u>7</u> A. Veglio, Attorney Manuel Villalon, Alex <u>8</u> Rodriguez, Luis Rodriguez-Pagan and me. <u>9</u> Q. Other than Mr. Veglio-- <u>10</u> "Veglio"? <u>11</u> A. Yes. <u>12</u> Q. --did anyone else have experience in <u>13</u> operating a station? <u>14</u> A. No. <u>15</u> Q. How many stations total did Bartolo own or <u>16</u> operate for Gasolinas de Puerto Rico? <u>17</u> A. Six. <u>18</u> Q. When Gasolinas de Puerto Rico had the <u>19</u> stations, did they have employees running the station <u>20</u> to your understanding? <u>21</u> MS. ORTIZ: Objection. Form. <u>22</u> THE DEPONENT: Yes. <u>23</u> BY MS. O'REILLY: <u>24</u> Q. Did Bartolo hire those same employees to <u>25</u> continue to work with the stations?</p>	<p style="text-align: right;">23</p> <p><u>1</u> Q. Did you hire managers who already had <u>2</u> experience in operating gasoline stations? <u>3</u> A. Yes. <u>4</u> Q. Did Gasolinas de Puerto Rico have to <u>5</u> approve any of your managers before they could work at <u>6</u> the stations? <u>7</u> MS. ORTIZ: Objection to form. <u>8</u> THE DEPONENT: No. <u>9</u> BY MS. O'REILLY: <u>10</u> Q. Did you make sure that for the Central <u>11</u> station that the managers that you hired there had <u>12</u> experience operating a station before you hired them? <u>13</u> A. I think that the first manager that we had <u>14</u> for that station we transferred from Levittown to <u>15</u> Central Avenue. <u>16</u> I'm sorry. If my memory serves me correctly, I <u>17</u> think the first manager's there name was Yun Rivera, <u>18</u> and after that the next one was, I think, Juan Carlos <u>19</u> Gonzalez, and both came from working for the company <u>20</u> from which we bought the two stations in 1997 in <u>21</u> Levittown and Guaynabo. <u>22</u> Q. Would that be Gasolinas de Puerto Rico? <u>23</u> A. No. <u>24</u> Q. Who did you buy the first two stations <u>25</u> from?</p>
<p style="text-align: right;">22</p> <p><u>1</u> A. I think the cashiers and the floor <u>2</u> employees. <u>3</u> Q. What about-- none of the managers? <u>4</u> MS. ORTIZ: Objection to form. <u>5</u> THE DEPONENT: I don't recall. <u>6</u> BY MS. O'REILLY: <u>7</u> Q. Was-- I may have asked you. I apologize. <u>8</u> Was Mr. Ortiz an employee of Gasolinas de Puerto <u>9</u> Rico? <u>10</u> A. No, but he did have experience in gasoline <u>11</u> stations as an employee of a wholesaler. I don't <u>12</u> remember the name of the wholesaler, but he had worked <u>13</u> for a wholesaler. <u>14</u> Q. Did Bartolo have any other gasoline <u>15</u> operations other than operating the six Gasolinas de <u>16</u> Puerto Rico stations? <u>17</u> A. No. <u>18</u> Q. When Bartolo first took over the Central <u>19</u> station, when you took over the first two, did you <u>20</u> receive training? <u>21</u> MS. ORTIZ: Objection. Form. <u>22</u> THE DEPONENT: No. <u>23</u> BY MS. O'REILLY: <u>24</u> Q. Did your managers receive training? <u>25</u> A. I don't think so.</p>	<p style="text-align: right;">24</p> <p><u>1</u> A. I've been trying to remember that for a <u>2</u> while. <u>3</u> Q. Okay. Well, you're doing great. Great. <u>4</u> You remembered the names. That's great. <u>5</u> Did you or your partners participate at all in <u>6</u> day-to-day operations of the Central Avenue station? <u>7</u> MS. ORTIZ: Objection. Form. <u>8</u> THE DEPONENT: Yes. <u>9</u> BY MS. O'REILLY: <u>10</u> Q. And how did you participate? <u>11</u> MS. ORTIZ: Objection. Form. <u>12</u> THE DEPONENT: The manager would call us <u>13</u> on a daily basis, he would tell us what the <u>14</u> sales were, any problems that existed. We <u>15</u> visited the stores. Typical supervision. <u>16</u> BY MS. O'REILLY: <u>17</u> Q. And did-- when you bought the Central <u>18</u> store, did Gasolinas de Puerto Rico offer training for <u>19</u> you and your partners or any of your employees? <u>20</u> MS. ORTIZ: Objection. Form. <u>21</u> THE DEPONENT: No. <u>22</u> BY MS. O'REILLY: <u>23</u> Q. How did you or your managers keep track of <u>24</u> the gasoline inventory, how much you received and how <u>25</u> much you sold?</p>

<p style="text-align: right;">29</p> <p>1 BY MS. O'REILLY:</p> <p>2 Q. Did any of the stations have a machine</p> <p>3 that would print out a piece of paper every day that</p> <p>4 would tell you how much gasoline was in the system?</p> <p>5 MS. ORTIZ: Objection. Form.</p> <p>6 THE DEPONENT: How much was in the tanks?</p> <p>7 BY MS. O'REILLY:</p> <p>8 Q. Yes.</p> <p>9 A. No.</p> <p>10 Q. Did any-- did the system at Central, did</p> <p>11 the tanks at Central, have an alarm system that was</p> <p>12 supposed to alarm if there was a leak from the gasoline</p> <p>13 system?</p> <p>14 A. I don't recall.</p> <p>15 Q. Do you recall if Gasolinas de Puerto Rico</p> <p>16 told you to put any covering on the pavement by the</p> <p>17 dispensers, a coating or a sealant on the pavement by</p> <p>18 the dispensers, to prevent leaks or drips of gasoline</p> <p>19 from getting into the ground?</p> <p>20 MS. ORTIZ: Objection. Form.</p> <p>21 THE DEPONENT: Are you referring in the</p> <p>22 event of a leakage?</p> <p>23 BY MS. O'REILLY:</p> <p>24 Q. Yes.</p> <p>25 A. There was no leakage.</p>	<p style="text-align: right;">31</p> <p>1 person who was in charge of the supervision of</p> <p>2 the stores was Veglio. More than anything, I</p> <p>3 was part of the finances.</p> <p>4 BY MS. O'REILLY:</p> <p>5 Q. Okay. Do you know where Mr. Veglio is?</p> <p>6 A. He's either at his house or at a bar.</p> <p>7 Q. Well, how about the house, the address of</p> <p>8 the house? I won't ask about the bar on the record.</p> <p>9 A. Oh, Jesus. I don't recall.</p> <p>10 Q. Just let us know if you do remember any</p> <p>11 time a little bit later.</p> <p>12 A. Yes.</p> <p>13 Q. Would you like some water?</p> <p>14 A. No, no. I'm fine.</p> <p>15 Q. Okay.</p> <p>16 A. Thank you.</p> <p>17 Q. And we'll go a few more minutes and then</p> <p>18 we'll take a break. We'll try to take a break every</p> <p>19 hour just for a few minutes to stretch our legs.</p> <p>20 When you acquired the Central station, were you</p> <p>21 provided with manuals, booklets, on the operations of</p> <p>22 the station, do you remember?</p> <p>23 MS. ORTIZ: Objection. Form.</p> <p>24 THE DEPONENT: I don't think so.</p> <p>25</p>
<p style="text-align: right;">30</p> <p>1 Q. But on the pavement by the dispensers, did</p> <p>2 they tell you to put something on, like a seal or a</p> <p>3 type of paint or something, to keep the gasoline if it</p> <p>4 dripped from going into the ground?</p> <p>5 MS. ORTIZ: Objection to form. Asked and</p> <p>6 answered.</p> <p>7 THE DEPONENT: But it was a cement floor.</p> <p>8 It wouldn't go in.</p> <p>9 BY MS. O'REILLY:</p> <p>10 Q. Other than measuring the tanks every day,</p> <p>11 did Gasolinas de Puerto Rico tell you about any other</p> <p>12 steps that you should take to check for leaks?</p> <p>13 MS. ORTIZ: Objection to form.</p> <p>14 THE DEPONENT: In the event of?</p> <p>15 BY MS. O'REILLY:</p> <p>16 Q. Just to look for leaks.</p> <p>17 MS. ORTIZ: Same objection.</p> <p>18 THE DEPONENT: I really don't recall.</p> <p>19 BY MS. O'REILLY:</p> <p>20 Q. Did Gasolinas de Puerto Rico provide you</p> <p>21 with information about safety of operating the tanks?</p> <p>22 MS. ORTIZ: Objection. Form.</p> <p>23 THE DEPONENT: I don't recall.</p> <p>24 (To the interpreter) I think it would be</p> <p>25 important to mention to her that out of us the</p>	<p style="text-align: right;">32</p> <p>1 BY MS. O'REILLY:</p> <p>2 Q. Who was called, or who did you or the</p> <p>3 manager call, when you wanted to order gasoline for the</p> <p>4 Central station?</p> <p>5 A. Dispatch.</p> <p>6 Q. A dispatcher where?</p> <p>7 A. At Gasolinas de Puerto Rico.</p> <p>8 Q. And did Gasolinas de Puerto Rico arrange</p> <p>9 for the delivery of the gasoline to the Central</p> <p>10 station?</p> <p>11 MS. ORTIZ: Objection. Form.</p> <p>12 THE DEPONENT: Yes.</p> <p>13 BY MS. O'REILLY:</p> <p>14 Q. They hired the drivers to your knowledge?</p> <p>15 A. Yes.</p> <p>16 Q. Do you know where the gasoline that was</p> <p>17 supplied to the Central station, where it was picked</p> <p>18 up?</p> <p>19 MS. ORTIZ: Objection. Form.</p> <p>20 THE DEPONENT: Gasolinas de Puerto Rico</p> <p>21 bought gasoline from all of the wholesalers. So</p> <p>22 they may have acquired the gasoline either from</p> <p>23 Exxon as well as Shell. They didn't have a</p> <p>24 tank.</p> <p>25</p>

<p style="text-align: right;">37</p> <p>1 pipelines or the dispensers, was any of that equipment</p> <p>2 changed or replaced or upgraded?</p> <p>3 MS. ORTIZ: Objection. Form.</p> <p>4 THE DEPONENT: I don't recall.</p> <p>5 BY MS. O'REILLY:</p> <p>6 Q. I think you told me--let me make</p> <p>7 sure--when Bartolo took over the Central station you</p> <p>8 took it over directly from Gasolinas de Puerto Rico,</p> <p>9 correct?</p> <p>10 A. Correct.</p> <p>11 Q. Okay.</p> <p>12 Do you recall at any time being at the Central</p> <p>13 station and seeing the ground dug up, the soil exposed?</p> <p>14 MS. ORTIZ: Objection. Form.</p> <p>15 THE DEPONENT: No.</p> <p>16 BY MS. O'REILLY:</p> <p>17 Q. Do you know if there were any leaks or</p> <p>18 releases before Bartolo took over the Central station?</p> <p>19 MS. ORTIZ: Objection. Form.</p> <p>20 THE DEPONENT: I don't know.</p> <p>21 BY MS. O'REILLY:</p> <p>22 Q. Did you see or did Gasolinas de Puerto</p> <p>23 Rico tell you they were testing the soil or testing the</p> <p>24 water at the station at any time?</p> <p>25 MS. ORTIZ: Objection to form.</p>	<p style="text-align: right;">39</p> <p>1 BY MS. O'REILLY:</p> <p>2 Q. Do you remember the name of the companies,</p> <p>3 the contract companies?</p> <p>4 A. No.</p> <p>5 Q. Did they leave paperwork with you if they</p> <p>6 made a repair?</p> <p>7 A. I think so.</p> <p>8 Q. And who paid for those repairs?</p> <p>9 A. I think they paid in the majority of</p> <p>10 cases.</p> <p>11 Q. Were there some times when Bartolo paid?</p> <p>12 A. I think so.</p> <p>13 Q. And in what instances do you recall where</p> <p>14 Bartolo might have paid?</p> <p>15 A. I don't recall.</p> <p>16 <u>Q. Did Gasolinas de Puerto Rico, the sales</u></p> <p>17 <u>representative, or anyone from Gasolinas de Puerto</u></p> <p>18 <u>Rico, come out and inspect the station on a regular</u></p> <p>19 <u>basis?</u></p> <p>20 <u>MS. ORTIZ: Objection to form.</u></p> <p>21 <u>THE DEPONENT: Yes.</u></p> <p>22 BY MS. O'REILLY:</p> <p>23 Q. Was it the sales manager that came out?</p> <p>24 A. No. The representative in charge of the</p> <p>25 store.</p>
<p style="text-align: right;">38</p> <p>1 THE DEPONENT: I don't recall.</p> <p>2 BY MS. O'REILLY:</p> <p>3 Q. Did you receive any documents when you</p> <p>4 took over operations of the Central station, when</p> <p>5 Bartolo took them over, about the environmental status</p> <p>6 of the station, any documents about an investigation or</p> <p>7 contamination?</p> <p>8 A. No.</p> <p>9 MS. ORTIZ: Objection to form.</p> <p>10 BY MS. O'REILLY:</p> <p>11 <u>Q. If you recall, how long after-- how long</u></p> <p>12 <u>would it take for Gasolinas de Puerto Rico to send</u></p> <p>13 <u>someone out to fix a problem with the tanks or the</u></p> <p>14 <u>dispensers after your manager called?</u></p> <p>15 <u>A. It depends, because if we would call</u></p> <p>16 <u>sometimes for them to come and fix something if there</u></p> <p>17 <u>was a problem, they might send someone the same day or</u></p> <p>18 <u>the next day. It depends on the problem.</u></p> <p>19 Q. Was it someone, to your understanding, the</p> <p>20 technician that they sent out, was that technician</p> <p>21 employed by Gasolinas de Puerto Rico, or was it a</p> <p>22 contractor?</p> <p>23 MS. ORTIZ: Objection to form.</p> <p>24 THE DEPONENT: They were contractors</p> <p>25 sometimes.</p>	<p style="text-align: right;">40</p> <p>1 Q. When you say "the representative in charge</p> <p>2 of the store," what was their position with Gasolinas</p> <p>3 de Puerto Rico to your understanding?</p> <p>4 A. It was the liaison between us and the</p> <p>5 Gasolinas de Puerto Rico management.</p> <p>6 Q. Do you recall what the name of that person</p> <p>7 was?</p> <p>8 A. There were several.</p> <p>9 Q. Do you remember any of the names?</p> <p>10 A. No.</p> <p>11 Q. Okay. And--</p> <p>12 MS. O'REILLY: (To the interpreter) I'm</p> <p>13 sorry?</p> <p>14 THE INTERPRETER: "No."</p> <p>15 BY MS. O'REILLY:</p> <p>16 Q. Did you-- were you present when they did</p> <p>17 any-- when they did an inspection?</p> <p>18 A. Freddie. I believe there was one whose</p> <p>19 name was Freddie Castaner. The rest I don't remember.</p> <p>20 Q. Okay.</p> <p>21 Did you ever go watch an inspection of the</p> <p>22 station? Were you present when the Gasolinas de Puerto</p> <p>23 Rico liaison inspected the station?</p> <p>24 A. Yes.</p> <p>25 Q. Can you generally describe what they did</p>

<p style="text-align: right;">69</p> <p>1 A. Yeah.</p> <p>2 Q. Okay.</p> <p>3 Do you recognize this document?</p> <p>4 A. I don't remember it, but I recognize my</p> <p>5 signature.</p> <p>6 Q. Okay.</p> <p>7 And do you know what this document represents?</p> <p>8 A. Yes.</p> <p>9 Q. And what is it for?</p> <p>10 A. The cancellation of the four contracts for</p> <p>11 the operation-- I'm guessing it's for the operation of</p> <p>12 Avenida Central.</p> <p>13 Q. Did you have any other stations with</p> <p>14 Gasolinas de Puerto Rico that started on April 30,</p> <p>15 1998, other than the Central?</p> <p>16 A. Santurce.</p> <p>17 Q. And did that contract get canceled as</p> <p>18 well?</p> <p>19 A. No.</p> <p>20 Q. So given the fact that the Santurce</p> <p>21 gasoline station was not cancelled, but the Central was</p> <p>22 cancelled, does this likely relate to the Central</p> <p>23 station?</p> <p>24 A. This refers to the cancellation so that</p> <p>25 they can then rent the station to Veglio.</p>	<p style="text-align: right;">71</p> <p>1 A. Yes.</p> <p>2 Q. <u>And if there were extra steps or extra</u></p> <p>3 <u>procedures that should have been in place so that MTBE</u></p> <p>4 <u>didn't contaminate water, would you and your managers</u></p> <p>5 <u>have implemented those procedures?</u></p> <p>6 MS. ORTIZ: Objection. Form.</p> <p>7 MS. GEPPERT: Objection.</p> <p>8 THE DEPONENT: I imagine.</p> <p>9 BY MS. O'REILLY:</p> <p>10 Q. <u>Were you aware that MTBE can, when</u></p> <p>11 <u>released from a gas station, contaminate the water that</u></p> <p>12 <u>people drink?</u></p> <p>13 MS. ORTIZ: Objection. Form.</p> <p>14 THE DEPONENT: Now I am.</p> <p>15 BY MS. O'REILLY:</p> <p>16 Q. <u>And when you saw "now," today, or did you</u></p> <p>17 <u>learn after-- sometime before today?</u></p> <p>18 A. No, because it's been published in the</p> <p>19 press lately. But in those days I didn't even know</p> <p>20 that MTBE existed.</p> <p>21 Q. <u>Does it concern you that MTBE can</u></p> <p>22 <u>contaminate water that people drink?</u></p> <p>23 MR. LUTZ: Objection to form.</p> <p>24 MS. ORTIZ: Objection. Form.</p> <p>25 THE DEPONENT: Yes.</p>
<p style="text-align: right;">70</p> <p>1 Q. Okay.</p> <p>2 And that's the Central, correct?</p> <p>3 A. Yes.</p> <p>4 Q. Did you-- when the contract was canceled,</p> <p>5 had you worked out all the problems with Gasolinas de</p> <p>6 Puerto Rico, or did you continue to have correspondence</p> <p>7 with them about the Central station?</p> <p>8 MS. ORTIZ: Objection. Form.</p> <p>9 THE DEPONENT: I don't recall.</p> <p>10 BY MS. O'REILLY:</p> <p>11 Q. Did you learn at any time that there had</p> <p>12 been contamination of the soil or ground water</p> <p>13 associated with the Central station?</p> <p>14 MS. ORTIZ: Objection to form.</p> <p>15 THE DEPONENT: I don't recall.</p> <p>16 BY MS. O'REILLY:</p> <p>17 Q. <u>Did Gasolinas de Puerto Rico ever tell you</u></p> <p>18 <u>that MTBE was in the gasoline being sold at the Central</u></p> <p>19 <u>station?</u></p> <p>20 A. No.</p> <p>21 MS. ORTIZ: Objection to form.</p> <p>22 BY MS. O'REILLY:</p> <p>23 Q. <u>Did Bartolo and your managers try to be</u></p> <p>24 <u>careful in operating the Central station to make sure</u></p> <p>25 <u>that gasoline didn't spill?</u></p>	<p style="text-align: right;">72</p> <p>1 BY MS. O'REILLY:</p> <p>2 Q. <u>Would you have wanted to do everything</u></p> <p>3 <u>that you could, and your managers to do everything they</u></p> <p>4 <u>could, to prevent MTBE from contaminating the water</u></p> <p>5 <u>people drink?</u></p> <p>6 MS. ORTIZ: Objection. Form.</p> <p>7 MS. GEPPERT: Objection. Vague.</p> <p>8 MS. ORTIZ: Asked and answered.</p> <p>9 THE REPORTER: (To Ms. Geppert) Did you</p> <p>10 say "Objection. Vague"?</p> <p>11 MS. GEPPERT: Yes.</p> <p>12 THE DEPONENT: Personally, yes.</p> <p>13 BY MS. O'REILLY:</p> <p>14 Q. And your managers too?</p> <p>15 MS. ORTIZ: Same objection.</p> <p>16 THE DEPONENT: I can't speak for them.</p> <p>17 BY MS. O'REILLY:</p> <p>18 Q. But Bartolo, would you implement a policy</p> <p>19 to-- if there were special procedures that could</p> <p>20 prevent MTBE from getting to the water?</p> <p>21 MS. ORTIZ: Objection. Form.</p> <p>22 THE DEPONENT: Basically, what we would</p> <p>23 have limited ourselves to if there had been a</p> <p>24 gasoline spill would be to remedy the situation</p> <p>25 by putting sand over it in the area where the</p>

<p style="text-align: right;">73</p> <p>1 gasoline spill is, and then we would have</p> <p>2 proceeded to call the Fire Department and GPR.</p> <p>3 BY MS. O'REILLY:</p> <p>4 Q. Okay.</p> <p>5 A. But I repeat like I did before. I'm</p> <p>6 answering because I am a concerned citizen, but in the</p> <p>7 case of Avenida Central, if there ever had been a</p> <p>8 spill, it would have been on top of cement, on top of</p> <p>9 the cement floor, unless there was some kind of a spill</p> <p>10 in the tanks or in the lines.</p> <p>11 <u>Q. Okay.</u></p> <p>12 <u>And if you and your managers could take special</u></p> <p>13 <u>precautions to prevent MTBE from reaching the water</u></p> <p>14 <u>people drink, would you do it?</u></p> <p>15 <u>MS. ORTIZ: Objection. Form.</u></p> <p>16 <u>MR. LUTZ: Objection to form.</u></p> <p>17 <u>THE DEPONENT: Well, I would have to speak</u></p> <p>18 <u>for now, about my station, and the answer would</u></p> <p>19 <u>be yes.</u></p> <p>20 BY MS. O'REILLY:</p> <p>21 Q. Okay. I need to take a moment to look at</p> <p>22 my notes. Why don't we take a quick break and I'll</p> <p>23 look at my notes. I may be done with my questions, and</p> <p>24 I will turn you over to other counsel.</p> <p>25 A. Thank you.</p>	<p style="text-align: right;">75</p> <p>1 THE DEPONENT: Right.</p> <p>2 MS. ORTIZ: I just want to clear up that</p> <p>3 we needed-- we suggested two hours for our part,</p> <p>4 but if you have some follow up--</p> <p>5 MS. O'REILLY: It probably won't take over</p> <p>6 two. Okay.</p> <p>7 BY MS. O'REILLY:</p> <p>8 Q. A couple of quick follow-up questions.</p> <p>9 Let me do this first. Let me mark one more</p> <p>10 document.</p> <p>11 THE REPORTER: This would be 12.</p> <p>12 (A document is marked for purposes of</p> <p>13 identification as Deposition Exhibit</p> <p>14 No. 12.)</p> <p>15 MS. O'REILLY: For the record, I've marked</p> <p>16 as Exhibit 12 a March 12, 2002, letter directed</p> <p>17 to Jorge Pavia of PR Petroleum Products from</p> <p>18 Gasolinas de Puerto Rico and it's Bates stamped</p> <p>19 TPPRC.SUPPLY-001738 through 1739.</p> <p>20 BY MS. O'REILLY:</p> <p>21 Q. Do you know Jorge Pavia?</p> <p>22 A. Yes.</p> <p>23 Q. And who is he?</p> <p>24 A. He's my nephew.</p> <p>25 Q. And did he have a contract with Gasolinas</p>
<p style="text-align: right;">74</p> <p>1 THE VIDEOGRAPHER: We're off the record.</p> <p>2 The time is 4:26 p.m.</p> <p>3 (Recess.)</p> <p>4 THE VIDEOGRAPHER: We're back on the</p> <p>5 record. The time is 4:36 p.m.</p> <p>6 BY MS. O'REILLY:</p> <p>7 Q. I just have a couple of more questions and</p> <p>8 there is one more document I'm going to ask you about.</p> <p>9 MS. O'REILLY: But before we go into my</p> <p>10 questions, we had a discussion off the record</p> <p>11 with the witness. Counsel for plaintiffs is--</p> <p>12 we're going to stay until I finish my</p> <p>13 cross-examination-- my direct examination today.</p> <p>14 Then we will reconvene for up to two, no more</p> <p>15 than two, additional hours at a point in time in</p> <p>16 July convenient to the witness. We're initially</p> <p>17 going to look at the week of July 8th, but if</p> <p>18 that doesn't work, then we will work with him on</p> <p>19 another time, and he's agreed to come back.</p> <p>20 Is that correct?</p> <p>21 THE DEPONENT: Yes, that is.</p> <p>22 MS. O'REILLY: And for counsel for</p> <p>23 defendants to conduct their examination and for</p> <p>24 any follow-up questions.</p> <p>25 Is that correct?</p>	<p style="text-align: right;">76</p> <p>1 de Puerto Rico for gasoline supply?</p> <p>2 A. I understand that he had a contract with</p> <p>3 Total for transportation of petroleum products.</p> <p>4 Q. Okay.</p> <p>5 And is your nephew still in Puerto Rico?</p> <p>6 A. Yes.</p> <p>7 Q. Okay.</p> <p>8 And do you know where he lives now?</p> <p>9 A. He was divorced last year. I know he</p> <p>10 lives in Miramar, but I don't know where.</p> <p>11 Q. Okay.</p> <p>12 Did his company ever deliver the petroleum to</p> <p>13 your Central station?</p> <p>14 MS. ORTIZ: Objection to form.</p> <p>15 THE DEPONENT: No.</p> <p>16 BY MS. O'REILLY:</p> <p>17 <u>Q. Okay. Do you recall if anyone from</u></p> <p>18 <u>Gasolinas de Puerto Rico told you about MTBE and its</u></p> <p>19 <u>ability to contaminate water people drink?</u></p> <p>20 <u>MS. ORTIZ: Objection. Form.</u></p> <p>21 <u>THE DEPONENT: No.</u></p> <p>22 BY MS. O'REILLY:</p> <p>23 <u>Q. Did they tell you MTBE was in the gasoline</u></p> <p>24 <u>that you were selling at the Central station?</u></p> <p>25 <u>MR. LUTZ: Objection to form.</u></p>

[Certified Translation]

5/31/13
Daniel Tomlinson
DANIEL TOMLINSON
CERTIFIED TRANSLATOR
ADMINISTRATIVE OFFICE OF
THE UNITED STATES COURTS

[From page No. TPPRC.SSRETAIL_000854-57]

GRATUITOUS BAILMENT AGREEMENT

- AS PARTY OF THE FIRST PART: GASOLINAS DE PUERTO RICO CORPORATION, a corporation established and existing under the laws of the Commonwealth of Puerto Rico, ... hereinafter referred to as G.P.R., and
- AS PARTY OF THE SECOND PART: BARTOLO, INC., a corporation organized and existing under the laws of the Commonwealth of Puerto Rico, duly authorized to do business in Puerto Rico, with offices at Calle "C", Block E, dash, fifty-four (E-54), Reparto Industrial Doctor Mario A. Julia, Puerto Nuevo, Puerto Rico, and represented in this proceeding by its President, Mr. ANTONIO PAVIA BIBILONI, with Social Security number 583-08-[redacted], of legal age, married and a resident of San Juan, Puerto Rico, hereinafter referred to as GRATUITOUS BAILEE, who will engage in the sales business of petroleum products at the gasoline station located at *Avenida Jesus T. Piñero, #263, Hato Rey, Puerto Rico*—
- FIRST: THE GRATUITOUS BAILEE has signed a contract with G.P.R. for the purchase of G.P.R.'s gasoline and diesel, greases and lubricants to be sold at the service station that he operates at the gasoline station located at *Avenida Jesus T. Piñero, #263, Hato Rey, Puerto Rico*—
- THIRD: By means of this contract G.P.R. will deliver personal property it owns to the GRATUITOUS BAILEE, and G.P.R. and the GRATUITOUS BAILEE agree that said equipment mentioned in the SECOND number or those that may be substituted or that have already been installed or that may be installed in the future, shall be used solely to store, dispense, use and sell petroleum products distributed by G.P.R., with the G.P.R. trademarks and emblems, excluding any others, remaining subject to this Gratuitous Bailment Agreement, as an express waiver of any other proviso or pact included in any other agreement. G.P.R. reserves absolute ownership of the property that is the subject of this Gratuitous Bailment Agreement and grants to GRATUITOUS BAILEE the user's right in accordance with what is agreed to in this

PAVIA
Deposition
Exhibit #4
JdT 6/12/13

able to enter said establishment and pick up said property in the agreed-upon manner, in which case GRATUITOUS BAILEE shall also pay the legal and out-of-court expenses and costs that G.P.R. incurs in the removal and extracting and transportation of said property to G.P.R.'s warehouse.

– SIXTEENTH: G.P.R. and GRATUITOUS BAILEE make it clear that all the equipment or personal property belonging to G.P.R. and that G.P.R. has delivered or put in the service station by way of notarized or verbal contracts, or being part of other contracts or whether or not its delivery is justified through a "Receipt of Equipment and Materials," shall be governed by this GRATUITOUS BAILMENT AGREEMENT.

[From page No. TPPRC.SSRETAIL_000860]

Gratuitous Bailment Agreement Attachment
Bartolo, Inc. & GPR
S/S 2012

[From page No. TPPRC.SSRETAIL_000861]

Gratuitous Bailment Agreement Attachment
Bartolo, Inc. & GPR
S/S 2012
Page No. 2

[From page No. TPPRC.SSRETAIL_000867]

SALES AND SUPPLY CONTRACT
(2012)

COME NOW

– AS PARTY OF THE FIRST PART: GASOLINAS DE PUERTO RICO CORPORATION, ...

hereinafter referred to as the "SUPPLIER."

– AS PART OF THE SECOND PART: BARTOLO, INC., ...

hereinafter referred to as the "BUYER."

– SECOND: That BUYER is interested in obtaining from SUPPLIER, by means of purchase, the petroleum products with the G.P.R. trademark and/or with any other brand name distributed by SUPPLIER.

[From page No. TPPRC.SSRETAIL_000868]

CLAUSES AND CONDITIONS

– First: TERM OF THE CONTRACT

The term of this contract shall be for a period of three years, beginning on the ~~thirtieth (30)~~ day of April [Handwritten with initials in margin: first (1) of May] of nineteen ninety-eight (1998) and ending on the ~~twenty-ninth (29)~~ [Handwritten with initials: thirtieth (30)] of April of two thousand one (2001).

– Second: MINIMUM PURCHASES

During the term of this contract, SUPPLIER agrees to sell and BUYER agrees to buy and pay for the products indicated in the SECOND recital, above, in a minimum monthly amount according to what is listed below:

Regular unleaded gasoline	140,000__gallons
Premium unleaded gasoline	85,000__gallons
Monthly fuel minimum	225,000__gallons
Oils and Lubricants	160__gallons

[Initials]

[From page No. TPPRC.SSRETAIL_000871]

– Ninth: REGULAR DELIVERIES

SUPPLIER shall deliver to BUYER each and every one of the products in amounts that it considers to be wholesale sales and taking into consideration the cost of transportation, handling and delivery. The gasoline and gas oil shall be ordered by BUYER to be delivered in bulk by SUPPLIER in a tank truck, on each occasion, with a minimum of eight thousand (8,000) gallons of a single product or combined. However, SUPPLIER retains the power to modify the amount and manner of deliveries in consideration of its particular operational circumstances, at its sole discretion, and for this purpose latter is released by BUYER from any claim that may originate from exercising said power.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE: METHYL TERTIARY BUTYL	*	Master File
ETHER ("MTBE") PRODUCTS		No. 1:00-1898
LIABILITY LITIGATION	*	
-----		MDL 1358 (SAS)
COMMONWEALTH OF PUERTO RICO,	*	M21-88
et al.,		
	*	
Plaintiffs,		
	*	
vs.		
	*	
Defendants.		
	*	

Case No. 07-CIV-10470 (SAS)

The continued videotape deposition of:

ANTONIO R. PAVIA,

a former Total Service Station Operator, and a

Non-Party Witness herein, was held at the DEPARTMENT OF

JUSTICE FOR THE COMMONWEALTH OF PUERTO RICO, Ninth

Floor, Olimpo Street, San Juan, Puerto Rico 00907, on

Thursday, July 11, 2013, at 10:17 a.m.

- VOLUME II OF II -

<p style="text-align: right;">Page 10</p> <p>1 follows:</p> <p>2 EXAMINATION</p> <p>3 BY MS. ORTIZ:</p> <p>4 Q. Good morning, Mr. Pavia, and thank you for</p> <p>5 being here today. Once again, my name is Deliris Ortiz</p> <p>6 and I'm here on behalf of Total Petroleum Puerto Rico</p> <p>7 Corp. I'm going to be asking you some questions geared</p> <p>8 toward clarification of your prior testimony back in</p> <p>9 June 12th.</p> <p>10 Before, you testified that you had five partners</p> <p>11 in Bartolo and you mentioned that they were Veglio,</p> <p>12 Manuel Villalon, Alex Rodriguez, Luis Rodriguez, and</p> <p>13 you.</p> <p>14 Is that correct?</p> <p>15 A. Yes.</p> <p>16 Q. Were all of them shareholders of Bartolo,</p> <p>17 Inc.?</p> <p>18 A. Yes.</p> <p>19 Q. Did they all have the same participation</p> <p>20 of shares?</p> <p>21 A. Yes.</p> <p>22 Q. Does Bartolo have a board of directors?</p> <p>23 A. Yes.</p> <p>24 Q. And who are the members of the board of</p> <p>25 directors?</p>	<p style="text-align: right;">Page 12</p> <p>1 operated the Central Street station from 1998 until</p> <p>2 2006, in which I participated.</p> <p>3 Q. But Bartolo operated the Total station</p> <p>4 from April of 1998 until 2003 when Q & M began the</p> <p>5 operation of the station.</p> <p>6 Is that correct? Do you recall?</p> <p>7 A. No, that is not correct, because I don't</p> <p>8 remember Total being in Puerto Rico in 2006 when we had</p> <p>9 the operations.</p> <p>10 Q. How about GPR?</p> <p>11 A. GPR, yes.</p> <p>12 Q. <u>I'm going to refer you to Exhibit 11.</u></p> <p>13 <u>Just let me know when you're done.</u></p> <p>14 A. <u>Yeah.</u></p> <p>15 Q. <u>Will that refresh your memory that Bartolo</u></p> <p>16 <u>operated the station from April 30, 1998, until</u></p> <p>17 <u>February 20th of 2003?</u></p> <p>18 A. <u>Yes.</u></p> <p>19 Q. You were not a member of Q & M</p> <p>20 Distributors, Inc., right?</p> <p>21 A. No.</p> <p>22 Q. Okay. You can put that aside. May I have</p> <p>23 it back.</p> <p>24 (The deponent complies.)</p> <p>25</p>
<p style="text-align: right;">Page 11</p> <p>1 A. Luis Rodriguez-Pagan and I.</p> <p>2 Q. And what position is-- Luis Rodriguez</p> <p>3 holds in the board of directors?</p> <p>4 A. Director.</p> <p>5 Q. And your position?</p> <p>6 A. Director.</p> <p>7 Q. Were each of you assigned a particular</p> <p>8 responsibility?</p> <p>9 A. When?</p> <p>10 Q. During two thousand-- since-- I'm sorry.</p> <p>11 Since you incorporated Bartolo, Inc.</p> <p>12 A. Yes.</p> <p>13 Q. And what were those responsibilities and</p> <p>14 the persons having the responsibilities?</p> <p>15 A. Veglio ran the operation, I supervised it,</p> <p>16 Villalon handled the finances, and the other two were</p> <p>17 nonparticipating partners in the administration.</p> <p>18 Q. Thank you.</p> <p>19 And I want to clarify the dates of operation of</p> <p>20 the Total 1012 station of Bartolo, Inc.</p> <p>21 Before you had mentioned that you were-- when</p> <p>22 asked about your association with the station, that you</p> <p>23 were associated with the station from 1998 until 2006.</p> <p>24 Do you remember that?</p> <p>25 A. To the best of my recollection, we</p>	<p style="text-align: right;">Page 13</p> <p>1 BY MS. ORTIZ:</p> <p>2 Q. Thank you.</p> <p>3 Also, before, back on June 12, when Counsel</p> <p>4 asked you if you personally operated the station on a</p> <p>5 day-to-day basis you responded that you had managers</p> <p>6 and supervisors.</p> <p>7 Do you remember that?</p> <p>8 A. Yes.</p> <p>9 Q. And were you in charge of supervising the</p> <p>10 managers and the supervisors at the station?</p> <p>11 A. Veglio and I.</p> <p>12 Q. And how was that divided?</p> <p>13 MS. O'REILLY: Vague.</p> <p>14 THE DEPONENT: Veglio did the part of the</p> <p>15 operations. But since this is a small business,</p> <p>16 we both participated in visiting the stations</p> <p>17 and there was no formal division of the duties.</p> <p>18 BY MS. ORTIZ:</p> <p>19 Q. Do you remember how often you would visit</p> <p>20 the Total 1012 station?</p> <p>21 A. No.</p> <p>22 Q. Once a month perhaps? Less than that?</p> <p>23 A. No. More than that.</p> <p>24 Q. So if GPR sales representatives or GPR</p> <p>25 subcontractors would come and visit the station, either</p>

<p style="text-align: right;">Page 38</p> <p>1 EXAMINATION</p> <p>2 BY MR. LUTZ:</p> <p>3 Q. Mr. Pavia, my name is David Lutz. I</p> <p>4 represent Idemitsu Apollo Corporation and I have maybe</p> <p>5 15 minutes of questions for you.</p> <p>6 If I talk from here, can you hear me okay?</p> <p>7 A. Yes.</p> <p>8 MR. LUTZ: And equally important, those of</p> <p>9 you on the phone, can you hear me from here?</p> <p>10 MR. FERRINO: Yes.</p> <p>11 MR. LUTZ: Great.</p> <p>12 THE REPORTER: Who spoke just now?</p> <p>13 MR. FARINO: Dan Farino from Archer &</p> <p>14 Greiner.</p> <p>15 THE REPORTER: Thank you.</p> <p>16 BY MR. LUTZ:</p> <p>17 Q. Mr. Pavia, you testified a little while</p> <p>18 ago that you visited the station at least once a month.</p> <p>19 Do you think it was as often as once a week</p> <p>20 even?</p> <p>21 MS. O'REILLY: Asked and answered multiple</p> <p>22 times.</p> <p>23 THE DEPONENT: Not necessarily.</p> <p>24 BY MR. LUTZ:</p> <p>25 Q. Now, during the years that Bartolo</p>	<p style="text-align: right;">Page 40</p> <p>1 MS. O'REILLY: Asked and answered.</p> <p>2 THE DEPONENT: He supervised the</p> <p>3 operations, the employees.</p> <p>4 BY MR. LUTZ:</p> <p>5 Q. So there would be certain things that</p> <p>6 might happen on a daily basis that were not important</p> <p>7 enough to bring to your attention, right?</p> <p>8 MS. O'REILLY: Calls for speculation,</p> <p>9 asked and answered, vague and ambiguous.</p> <p>10 THE DEPONENT: I imagine that Veglio</p> <p>11 wouldn't tell me everything that happened at the</p> <p>12 station on a day-to-day basis.</p> <p>13 BY MR. LUTZ:</p> <p>14 Q. But then there were certain things that if</p> <p>15 they happened that were important enough to the</p> <p>16 existence or the success of the station, things like</p> <p>17 that would be brought to your attention, right?</p> <p>18 MS. O'REILLY: Calls for speculation,</p> <p>19 argumentative, vague, ambiguous, over broad.</p> <p>20 THE DEPONENT: He was supposed to do so.</p> <p>21 BY MR. LUTZ:</p> <p>22 Q. And obviously the purpose of the station</p> <p>23 was a business venture to make money, right?</p> <p>24 A. Yes.</p> <p>25 Q. <u>And the station would buy the gasoline</u></p>
<p style="text-align: right;">Page 39</p> <p>1 operated Station 1012, was Bartolo your primary</p> <p>2 business venture?</p> <p>3 A. Throughout all of the years?</p> <p>4 Q. From 1998 until 2003, was Bartolo your</p> <p>5 primary business venture?</p> <p>6 A. I think that for part of that time it was</p> <p>7 not.</p> <p>8 Q. During the majority of those five years,</p> <p>9 was Bartolo your primary business venture?</p> <p>10 A. I'd have to check.</p> <p>11 Q. What other business were you involved in?</p> <p>12 A. In a finance consulting office.</p> <p>13 Q. Would it be fair to say that of the five</p> <p>14 partners in Bartolo that you had the primary</p> <p>15 supervision?</p> <p>16 MS. O'REILLY: Asked and answered multiple</p> <p>17 times.</p> <p>18 THE DEPONENT: No.</p> <p>19 BY MR. LUTZ:</p> <p>20 Q. But you supervised Mr. Veglio?</p> <p>21 MS. O'REILLY: Asked and answered.</p> <p>22 THE DEPONENT: Yes.</p> <p>23 BY MR. LUTZ:</p> <p>24 Q. And Mr. Veglio supervised the general</p> <p>25 manager at the station?</p>	<p style="text-align: right;">Page 41</p> <p>1 <u>from someone else, right?</u></p> <p>2 <u>MS. O'REILLY: Vague and ambiguous.</u></p> <p>3 <u>BY MR. LUTZ:</u></p> <p>4 <u>Q. Do you understand what I'm asking?</u></p> <p>5 <u>A. We only had one supplier, which was</u></p> <p>6 <u>Gasolinas de Puerto Rico.</u></p> <p>7 <u>Q. Okay.</u></p> <p>8 <u>And so would the station buy the gasoline from</u></p> <p>9 <u>GPR?</u></p> <p>10 <u>MS. O'REILLY: Asked and answered.</u></p> <p>11 <u>THE DEPONENT: Yes.</u></p> <p>12 <u>BY MR. LUTZ:</u></p> <p>13 <u>Q. And then the station would in turn sell</u></p> <p>14 <u>that gasoline to retail customers, right?</u></p> <p>15 <u>A. Yes.</u></p> <p>16 Q. Can you give me a sense of what the markup</p> <p>17 might be or the margin on the gasoline, how much more</p> <p>18 you would sell it for to retail customers than you</p> <p>19 would buy it for from GPR?</p> <p>20 MS. O'REILLY: Vague. Vague, ambiguous,</p> <p>21 over broad, assumes facts.</p> <p>22 (To the interpreter) Go ahead.</p> <p>23 THE DEPONENT: The thing is that depends</p> <p>24 on many factors.</p> <p>25</p>

<p style="text-align: right;">Page 46</p> <p>1 contamination, we would have done whatever had</p> <p>2 to be done to avoid the contamination.</p> <p>3 BY MR. LUTZ:</p> <p>4 Q. If you could not sell gasoline that you</p> <p>5 had bought and paid for because it was leaking into the</p> <p>6 ground, that would have been a big problem for the</p> <p>7 finances of the station also, right?</p> <p>8 MS. O'REILLY: Vague, ambiguous, over</p> <p>9 broad, incomplete hypothetical, argumentative,</p> <p>10 assumes facts, lacks foundation, asked and</p> <p>11 answered,</p> <p>12 THE DEPONENT: Well, the thing is that I</p> <p>13 find that question to be speculative because I</p> <p>14 don't remember that there was ever any leak.</p> <p>15 BY MR. LUTZ:</p> <p>16 Q. <u>And I understand there wasn't a leak that</u></p> <p>17 <u>you know of. But if there was a leak and gasoline was</u></p> <p>18 <u>leaking into the ground so that the station couldn't</u></p> <p>19 <u>sell it, that would have been an important enough event</u></p> <p>20 <u>that you would have been told about it, right?</u></p> <p>21 MS. O'REILLY: <u>Assumes facts, calls for</u></p> <p>22 <u>speculation, lacks foundation, incomplete</u></p> <p>23 <u>hypothetical, asked and answered, argumentative.</u></p> <p>24 <u>The witness has answered the question.</u></p> <p>25 THE DEPONENT: I'm assuming,</p>	<p style="text-align: right;">Page 48</p> <p>1 contamination.</p> <p>2 MS. O'REILLY: Vague, ambiguous, over</p> <p>3 broad, incomplete, assumes facts, lacks</p> <p>4 foundation, calls for speculation.</p> <p>5 (To the interpreter) Go ahead.</p> <p>6 THE DEPONENT: I don't remember that</p> <p>7 happening.</p> <p>8 BY MR. LUTZ:</p> <p>9 Q. Do you know who the gasoline that found</p> <p>10 its way to your station through GPR, who ultimately it</p> <p>11 came from?</p> <p>12 MS. O'REILLY: Asked and answered. That</p> <p>13 was covered in his prior deposition, Counsel.</p> <p>14 THE DEPONENT: What refinery it came from?</p> <p>15 BY MR. LUTZ:</p> <p>16 Q. Yes.</p> <p>17 A. No.</p> <p>18 Q. If we wanted to know what specific</p> <p>19 features the tanks had, is that something you knew, or</p> <p>20 is that something Mr. Veglio would know more about?</p> <p>21 MS. O'REILLY: Calls for speculation,</p> <p>22 assumes facts.</p> <p>23 THE DEPONENT: With respect to the</p> <p>24 capacity of the tank?</p> <p>25</p>
<p style="text-align: right;">Page 47</p> <p>1 <u>speculatively, that what we're talking about is</u></p> <p>2 <u>if there's any problem in a tank that has a</u></p> <p>3 <u>gasoline leak and we find out about the</u></p> <p>4 <u>situation, the logical thing was to call GPR for</u></p> <p>5 <u>GPR to come and check whether there actually was</u></p> <p>6 <u>a leak, and I imagine that GPR may have shut off</u></p> <p>7 <u>or closed down that tank, but the other two</u></p> <p>8 <u>tanks could continue to operate.</u></p> <p>9 BY MR. LUTZ:</p> <p>10 Q. And there never was a spill or leak like</p> <p>11 that, was there?</p> <p>12 MS. O'REILLY: Argumentative, asked and</p> <p>13 answered multiple times.</p> <p>14 THE DEPONENT: I don't recall.</p> <p>15 BY MR. LUTZ:</p> <p>16 Q. <u>Now, to your knowledge, the tanks complied</u></p> <p>17 <u>with Puerto Rican law and regulation, right?</u></p> <p>18 MS. O'REILLY: <u>Vague and ambiguous, over</u></p> <p>19 <u>broad.</u></p> <p>20 THE DEPONENT: <u>Yes. And the tanks were</u></p> <p>21 <u>GPR's. They weren't ours.</u></p> <p>22 BY MR. LUTZ:</p> <p>23 Q. And your station was never cited by the</p> <p>24 government of Puerto Rico for any violation that</p> <p>25 related to the tanks or the gasoline or spills or</p>	<p style="text-align: right;">Page 49</p> <p>1 BY MR. LUTZ:</p> <p>2 Q. Well, with respect to whether they had</p> <p>3 leak detection, or spill control, overfill protection,</p> <p>4 corrosion protection, cathodic protection, things like</p> <p>5 that.</p> <p>6 Are those questions for you, or are those things</p> <p>7 that Mr. Veglio would know more about than you?</p> <p>8 MS. O'REILLY: Assumes facts, lacks</p> <p>9 foundation, calls for speculation.</p> <p>10 (To the interpreter) Go ahead.</p> <p>11 THE DEPONENT: Well, I think Veglio knew</p> <p>12 more about it than I did, but even more than</p> <p>13 Veglio, I think GPR would have more knowledge.</p> <p>14 They're the owners of the tanks.</p> <p>15 BY MR. LUTZ:</p> <p>16 Q. You're not aware of any evidence during</p> <p>17 the time that Bartolo operated the station that there</p> <p>18 were any malfunctions or damage to the tank, pipes or</p> <p>19 other parts of the system?</p> <p>20 MS. O'REILLY: Asked and answered multiple</p> <p>21 times, vague and ambiguous.</p> <p>22 (To the interpreter) Go ahead.</p> <p>23 Compound.</p> <p>24 THE DEPONENT: I think I already answered</p> <p>25 that I don't recall there ever being any problem</p>

Exhibit 8

MEMORANDUM

San Francisco, CA
August 12, 1991

TIP Letter # 237
MTBE Effects

REGIONAL MANAGERS:

As you all know Methyl-tertiary-butyl-ether (MTBE) is widely used in gasoline throughout our distribution network. The oxygenated fuel requirements in the recent reauthorization of the federal Clean Air Act will only increase the use of MTBE and its concentration in our gasolines. In light of this, we thought it prudent to pass on some facts concerning the potential effects, both environmental and budgetary, of a spill or leak of gasoline containing MTBE into the groundwater. This information may help you to prioritize sites due for UST upgrades (ie. spill containment, release detection, etc.).

Typically, benzene is the component that determines the extent of a dissolved hydrocarbon plume and is the component with the most stringent cleanup standards. While benzene concentrations in the groundwater are the driving force for most cleanups, benzene is relatively easy to remove by carbon adsorption or air stripping and it will naturally biodegrade in most subsurface environments.

MTBE on the other hand is a different situation. The solubility of benzene in water is 1,800 parts per million (ppm), while the solubility of MTBE in water is 43,000 ppm! The dissolved plume that results from a leak into groundwater is directly related to the solubility in water of the chemical. The higher the solubility the larger the plume and the faster it will migrate.

When MTBE gets into the water then the trouble really starts. Removal of a compound by air stripping is governed by the Henry's Law constant; the constant for MTBE is 1/7 that of benzene; the biodegradation of MTBE is 1/5 that of benzene; the carbon adsorption of MTBE is 1/5 that of benzene. MTBE has two additional characteristics that only exacerbate the problem. Dissolved benzene transport in water is retarded due to adsorption; MTBE transport is not significantly slowed since it does not adsorb to soil as well. Water containing over 1,500 ppm of MTBE is flammable and can lead to explosive vapors. Attached you will find a summary of MTBE properties provided by R.J. Hinds of CRTG.

EXHIBIT

tabbies

107

999128

CONFIDENTIAL: This document is subject to the
September 21, 1999 Stipulated Protective Order entered
by the San Francisco Superior Court, Case No. 999128.

CHEV 09564

As you can see, a groundwater cleanup where MTBE is present has the potential to be 2-3 times as expensive as our present groundwater cleanups. The resulting plume will be much larger and the removal of MTBE is very difficult at best.

Our highest degree of concern right now is with service stations without spill containment manholes that are, or will be, served by racks that are blending MTBE. The combination of MTBE gasoline being delivered, the lack of spill containment manholes, and shallow groundwater could be tremendously expensive for us in the long run. As they say, an ounce of prevention is worth a pound of cure, and in this case prevention is certainly prudent.

J.L.KOERBER

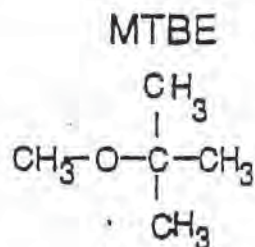
JK

DJL/

cc. A.M. Caccamo
D.N. Perkins
J.L. Pease
R.J. Hinds
Compliance Specialists
TIP Coordinators
Env. Engineering Supervisors
H.W. Riggs

CONFIDENTIAL: This document is subject to the
September 21, 1999 Stipulated Protective Order entered
in the San Francisco Superior Court, Case No. 999128.

CHEV 09565



SOLUBILITY, PPM AT 68 °F

MTBE IN WATER = 43,000 (BENZENE IN WATER = 1,800)

WATER IN MTBE = 14,000

FLAMMABILITY, MOL % IN AIR

LOWER EXPLOSIVE LIMIT = 1.6

UPPER EXPLOSIVE LIMIT = 10.5

AIR STRIPPING

HENRY'S LAW CONSTANT = 30 ATM/MOL FRACTION
(1/7 THAT OF BENZENE)

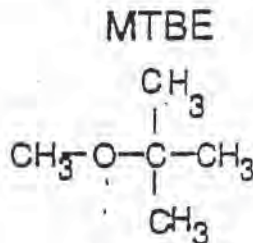
BIODEGREDDATION IN WATER = POOR

(ABOUT 1/5 THAT OF BENZENE)

CARBON ADSORPTION = POOR

(ABOUT 1/5 THAT OF BENZENE)

RJH
6/5/91



UNUSUAL CHARACTERISTICS

HIGH GROUNDWATER TRANSPORT RATE

(DISSOLVED BENZENE TRANSPORT IN WATER IS RETARDED DUE TO ADSORPTION;
MTBE TRANSPORT IS NOT SIGNIFICANTLY SLOWED SINCE IT DOESN'T ADSORB AS WELL)

UNEXPECTED FLAMMABILITY (>1,500 PPM IN WATER)

(WATER CONTAINING OVER 1500 PPM OF MTBE IS FLAMMABLE AND CAN LEAD
TO EXPLOSIVE VAPORS)

SALT SOLUBILITY

(WET MTBE CAN DISSOLVE 20 TO 50 PPM OF SALT)

CONFIDENTIAL: This document is subject to the
September 21, 1999 Stipulated Protective Order entered
by the San Francisco Superior Court, Case No. 999128.

RJH
6/5/91

CHEV 09567

Memorandum

San Francisco, CA
June 11, 1986



MARKETING ENVIRONMENTAL
CONCERNS REGARDING
THE USE OF MTBE IN MOGAS

MR. O. T. BUFFALOW:

We are currently involved in the cleanup of an aquifer in Maryland contaminated by several different company's leaking underground storage tanks. The companies involved, including Gulf, were utilizing MTBE (Methyl Tertiary Butyl Ether), a motor gasoline octane improver. The EPA has shown great interest in the removal of MTBE from this contaminated aquifer. A literature study by the API has shown that MTBE, and the related octane enhancer IPE (Isopropyl Ether), have several disturbing properties. Both MTBE and IPE:

- o have relatively high solubilities in water - an order of magnitude higher than BTX (Benzene, Toluene, Xylene)
- o have relatively high mobility in the subsurface - will move to the leading edge of a contamination plume
- o have low odor and taste thresholds in water
- o are relatively stable with respect to biodegradation
- o are expensive to remove from water - air stripping is required with follow-up treatment probably necessary to attain the extremely low discharge concentrations likely to be mandated by a governmental agency

We understand that Chevron currently utilizes MTBE at Port Arthur extensively and to a lesser extent in Pascagoula. We further understand that MTBE is anticipated to be used at some other Chevron refineries as the EPA mandated lead-phasedown continues to impact octane requirements. This projected increase in MTBE utilization concerns Marketing for two major reasons:

- o MTBE utilization could increase the cost to clean up leaks at service stations and terminals; and
- o MTBE could become a significant constituent of mogas storage water-draws and attract regulatory attention to Marketing terminal effluent. Marketing terminals generally route effluent through a simple API separator and have no facilities to treat or reduce dissolved component contamination.

MR. O. T. BUFFALOW

- 2 -

June 11, 1986

Please let us know what refineries are currently using MTBE or IPE. Although we expect usage varies with operating necessities at the refineries, please let us know which blends generally utilize MTBE/IPE and at what average concentrations. Please let us know what your future plans are with respect to these additives.

Thank you for your cooperation.

D. W. CALLAHAN

JK:J-2

cc: Mr. R. W. Krenzen - Please let us know if you are aware of any Chevron NPDES permits with MTBE limits, or expect future regulatory activity in this area.

Circulating File - 2500

Memorandum

San Francisco, CA
December 30, 1986

MTBE

MR. R. L. ARSCOTT:

Chevron USA Downstream has used MTBE in gasoline for a number of years. Future use as an octane enhancer is likely to increase; and government actions may stimulate additional use to reduce CO emissions from motor vehicles and/or to reduce the aromatics in gasoline. We are currently evaluating the economics of building an MTBE plant.

Recently, we have learned of concerns about potential adverse health and environmental effects of MTBE. For example, the attachments indicate that:

- The U.S. Interagency Testing Committee has recommended chronic inhalation toxicity testing with monitoring of concentrations at terminals and service stations, and
- The Maine Department of Environmental Protection has recommended either banning MTBE or imposing special storage requirements to protect groundwater.

Marketing has also heard of some concern in Europe that may spill over to the U.S.

We would appreciate your assessment of available information concerning health and environmental effects of MTBE and of the potential for additional government limitations on the use of MTBE in gasoline.

D. B. SMITH

BB:jsc

cc: Mr. C. L. Blackwell
Mr. O. T. Buffalow
Mr. D. W. Callahan
Mr. R. D. Cavalli
Mr. H. S. Quilley
Mr. E. E. Spitler
Mr. R. W. Yose

Original Signed by
DIXON A. SMITH

Original Signed by
M.A. JAVINSKY

bcc: JPG
MAJ
WBK
WHL
DAB✓



CH 009137

Alcohol Week

CHELVON CORPORATION

An Inside
Washington
Publication

An exclusive report on alcohol fuels and feedstocks

LIBRARY Vol. 7 No. 47 December 8, 1986

MAINE CALLS FOR DROPPING MTBE: CITES IT AS GROUNDWATER CONTAMINANT

A report detailing the hazards of methyl tertiary butyl ether (MTBE) as a groundwater contaminant has just been released by the Maine Dept. of Environmental Protection. According to the report, MTBE is not highly toxic but does spread through an aquifer more rapidly than other gasoline components, thereby concentrating the residual gasoline while contaminating drinking wells beyond the radius where gasoline would normally reach. The report concludes that MTBE should either be banned from addition to gasoline or at least stored in extra-secure containers.

MTBE was found to be soluble in water at 4.3%, compared to the relative insolubility of benzene at 0.18%, toluene at 0.05% and xylene at 0.12%. Since benzene, toluene and xylene are more soluble in water than MTBE, along with the larger hydrocarbon molecules of gasoline, tend to linger and concentrate while the MTBE rushes into fresh water supplies, the report says.

Although Maine has set a maximum contaminant level for MTBE at 30 parts per billion (ppb), concentrations of 690 ppb were discovered in a drinking well near a gasoline/MTBE blend spill. At that site, (continued on page 7)

the concentration of other volatile components was only 10 ppb. The well nearest the spill had concentrations of up to 126,000 ppb gasoline plus MTBE, the report states. At another site, total concentrations exceeded 600,000 ppb in contrast to usual maximum concentrations for gasoline components near spills of only 10-20,000 ppb. The point is that MTBE not only leads other hydrocarbons through the aquifer but, as it spreads away, concentrates the remaining hydrocarbons, one of the authors said.

"Groundwater contaminated with MTBE is difficult to remediate," the report states. Carbon filtration is not cost-effective for MTBE since a 2-cu-ft bed used to treat household water only lasts a month or less at MTBE concentrations of as low as 10 ppb.

The report states that MTBE, now one of the top 50 chemicals produced in the U.S., is a very popular oxygenate in lieu of tetra-ethyl lead. Some 30 plants now produce MTBE; Texas Petrochemicals and ARCO are the largest producers. An additional 20 plants are planned, the report states. Of the U.S. 60,000 barrels/day MTBE production, 95% originates in Texas. MTBE was first produced by ARCO in the 1960s when the company patented a process for removing branched olefins like isobutylene from hydrocarbons streams, the report states. The isobutylene is then combined with methanol. MTBE was not commercially produced until 1979 and production has increased by about 40% each year since 1980, the report states. It is currently used in about 10% of the U.S. gasoline supply but the proportion of gasoline blended with MTBE is expected to increase dramatically in coming years. Although the U.S. Environmental Protection Agency allows blending up to 11%, it is usually added at between 2% and 7% and mostly in unleaded premium gasolines.

Claims made about MTBE are that it has an octane blending value greater than that of toluene, reformate or alkylate; is compatible with all types of automobile materials; does not phase-separate as alcohols do; and that its use in gasoline reduces carbon monoxide and hydrocarbon emissions in most cars, the report states.

Not only does MTBE's greater solubility and lower ability to stick with soil and biological particles mean that its plume around a leak is greater than that of other gasoline components, but it also acts as a cosolvent for the gasoline components, thereby dragging them along behind, the report says. "The result is that the sum total of all dissolved gasoline components in groundwater is increased."

Although MTBE is not particularly toxic and is not carcinogenic, it has a "terpene-like" or "chemical" odor. "Our first contamination case, in 1984, was initially mistaken for one of hazardous waste leachate because of the unusual smell," it states. The odor can be detected at water concentrations as low as 20-50 ppb, the report states. Years after a spill, most of the plume will be only MTBE as the other gasoline components are biodegraded.

The report gives four reasons for concern over the toxicity of MTBE and its presence in domestic well water: it is very mobile in groundwater so that its concentration in a well may vary radically from week to week; plumes of MTBE in groundwater are associated with plumes of gasoline with its more varied and toxic components; MTBE is an irritant; and MTBE is probably a nervous system depressant like other ethers, and benzene, toluene and xylene.

MTBE is not the only villain when it comes to gasoline spills, however, the source said. The report offers three approaches regarding the MTBE problem, some of which would indirectly indict other gasoline additives including ethanol and methanol. Firstly, the report states that there is reason enough to call for the abandonment of MTBE as an additive in gasoline stored underground. Similarly, other octane enhancers including ethanol, methanol, and tertiary butyl alcohol may be equally soluble and have similar environmental effects to MTBE. Secondly, if MTBE use must continue, it by itself and when blended in gasoline should be stored only in double-contained facilities.

CH009138

MEMORANDUM

Mr. E. Bayart F 9/02/1
 Mr. L. L. Long
 Mr. C. R. Hart (Southwest Region, Marketing)

MDN
 #741

March 26, 1991

You may be interested
 in these documents, which
 Furman Foster (Northwest
 Region, Ops. Mgr.) requested.

CHEMICAL ENTRY REVIEW
FOR MTBE

A. L. Perkins: From Salt Lake Refinery. 2-Fluorocumene
 4-12-91

I have completed the environmental group's portion of the chemical entry review for MTBE. Bill Davis has previously completed his Safety Review. I will include a copy of this memo with the chemical review materials that still must be reviewed by Earl Shirts before they are returned to Bill Davis and then to you.

We understand that you are preparing for possible entry of MTBE into the refinery (or marketing) and simply wanted to develop our concerns for using this material. Whether the facilities are installed by marketing or the refinery, our concerns listed below are the same, especially since we currently treat marketing's waste water and have some responsibilities for fighting fires at the marketing terminal.

Bill Davis and I have signed the chemical entry review sheet allowing MTBE entry into the refinery subject to the following conditions:

1. Meet Bill Davis' safety concerns (attached).
2. Meet the following environmental concerns.
 - A. Spills or leaks of MTBE must be contained and prevented from contacting the ground or entering the waste water drainage system. This requirement includes above-ground impoundments at the unloading area to prevent hose disconnection spills. Sample stations also need to be engineered to prevent spills. Impoundments should be sealed like our hazardous waste pad.
 - B. Contaminated soil or water that has contacted MTBE or other oxygenates will likely be a hazardous waste because of the low flash points. Proper disposal procedures should be established and published.
 - C. Tanks containing MTBE should have double bottoms and leak detection systems.
 - D. Provide proper facilities for shutdowns and tank cleaning to prevent any MTBE from being spilled or washing into the drainage system.
 - E. Complete a HAZOP study on the planned facilities

EXHIBIT

CH 007163



during the design phase of the project. Safety and environmental concerns should be included in this study.

The attached memo from the El Segundo environmental group discusses the environmental effects of MTBE and Methanol. These chemicals are different than any other stocks that we have handled in the refinery before and consideration needs to be given towards mitigation of extreme environmental risks. ?

I will pass this information on to Earl Shirts for his review. Please see me if you have any questions.

Jeff Johns



Attachments

cc: RER, MGE, MDM, TJF, JWJ, SLR, MRB, WRD, MLP

CH 00716

Solving Problems from MTBE Contamination -

It's Not Just Regulating Underground Tanks

Some have suggested that the problems observed with MTBE contamination of groundwater can be resolved by forcing gasoline manufacturers and retailers into more stringent underground storage tank requirements. They argue it's just the tanks - fix them from leaking, and the MTBE problem will go away. There are several reasons why this explanation over-simplifies the situation. While it is important to reduce the likelihood a release from underground tanks, the mandated use of oxygenates has had unintended consequences. The physical and chemical properties of MTBE (and thus its mobility and persistence in the environment differ markedly from other components of gasoline. These differences make MTBE (and other ethers and heavy alcohols) more likely to get into groundwater and problematic to contain and clean up when a release occurs. These differences include:

- MTBE is more volatile than many components in gasoline. This means it is more likely to evaporate into the atmosphere when a release occurs, which in turn can readily move into water vapor (and subsequent rainfall) in the atmosphere.
- MTBE and other oxygenates are orders of magnitude more soluble in water than other gasoline components. Oxygenates make up one of largest single components in gasoline (10-15% by volume). They have a strong affinity for and dissolve easily in water (rainfall, surface waters, groundwater)
- Other gasoline components in comparison, bond more strongly to soil, should a release occur. This greatly reduces the volume of groundwater requiring clean-up, by limiting the area impacted.
- MTBE does not biodegrade as readily as other gasoline components, increasing the volume of groundwater impacted and making it more difficult to clean up.

Researchers at the University of California - Lawrence Livermore Laboratory¹ have concluded:

MTBE has the potential to impact regional groundwater resources and may present a cumulative contamination hazard. To date, impacts of MTBE to public water systems have been limited and were similar in frequency to those of benzene. Based on historical data, future impacts of aromatic hydrocarbons, such as benzene to water supplies is not expected to be common, due to retardation and relative ease of biodegradation. In contrast, MTBE contamination may be a progressive problem due to the chemical's apparent recalcitrance and mobility. With a compound that appears both ubiquitous and recalcitrant, water resource management on the regional scale will become increasingly relevant.

¹ "An Evaluation of MTBE Impacts to California Groundwater Resources"; LLNL - June 11, 1998



These concerns on the mobility and persistence of MTBE in the environment are reinforced by a recent study by the state of Maine. The state found MTBE groundwater contamination from small spills of gasoline (e.g. a spill in a parking lot, or a car accident) – incidences that stood in contrast to the known historical causes of MTBE contamination e.g. point source discharges from leaking underground storage tanks.¹

While MTBE and other oxygenates have been used for many years as gasoline blending components, it was only after the mandated use of oxygenates following the passage of the 1990 Clean Air Act Amendments, that oxygenates became as widely used as they are today. It is because of the differences in physical and chemical properties of MTBE that it is more likely to reach groundwater, as a result of incidental spills, overfills, and gasoline deliveries, even without underground storage tank leaks. Therefore, the detection of MTBE does not necessarily mean a tank is leaking. For example, MTBE has been found in low concentrations in lakes from rainfall runoff and recreational activities.

Congress passed requirements for owners and operators to upgrade their underground storage tanks, provide for leak detection, and provide for financial responsibility, should a release occur. These requirements became fully effective on January 1, 1999. As a company, Chevron began upgrading their tanks around the country in the early 1980's, years in advance of federal and state requirements. Over the years, Chevron has continued to go beyond federal requirements – for example, in the early 1990's Chevron decided to install double-walled tanks, even though they are not required, in all new and reconstructed service stations. In addition, last year Chevron began a nationwide program to further reduce the likelihood of releases of gasoline into the environment. This program includes evaluation and monitoring of the most sensitive sites where groundwater exists, checking lines and connections of pumps and tanks, and changing station operating procedures and housekeeping practices.

Even these steps, which go far beyond federal and state requirements, can't fully eliminate releases, nor change the physical and chemical properties of MTBE and other oxygenates when they do get in the environment. Further, additional control measures could take years to implement, without fully solving the problem. The solution is to allow refiners the flexibility to avoid putting MTBE into gasoline in the first place. California Cleaner Burning Gasoline, the cleanest burning gasoline in the world, can be produced with little or no oxygenates and still meet the state's strict air quality requirements. Congress should pass HR 11 and S () which would allow California refiners this flexibility.

¹ "The Presence of MTBE and Other Gasoline Compounds in Maine's Drinking Water"; October 13, 1998

*Jim Stambolis: This is marketing's
response to DSD. Tell desam with
San Francisco, CA you later this week
April 27, 1995*

Thanks.

Mark

5/2/95



Chevron

Product Engineering

CONFIDENTIAL

REC'D

MDK

JEK

MTBE IN GROUND WATER ISSUE



MR. D.J. O'REILLY:

This memo is in response to a note you wrote on a recent memo sent to you (plus Mr. K.T. Derr and Mr. J.N. Sullivan) from Mr. R.L. Hartung regarding Methyl Tert Butyl Ether (MTBE) contamination of ground water. You asked Mr. B.D. Frolich and me if we were concerned and if any action was needed (memo attached for your convenience). This response was developed by Product Engineering in consultation with the Marketing Environmental, Health, and Safety team, the Alternative Fuels group, Public Affairs, and Chevron Research and Technology Company (CRTC).

Mr. Hartung's memo included a report by the United States Geological Survey (USGS) that summarized MTBE properties, sources, fate in the environment, and the discovery of MTBE in shallow ground water (mostly in urban areas). The USGS report did not include data regarding MTBE contamination in the deeper ground water used for drinking water, but stated that, "... there are few data showing concentrations of MTBE at these deeper depths." It is not clear what risk exists for MTBE transport from shallow groundwater to deeper ground water used as drinking water. The American Petroleum Institute (API) developed a response-only document in connection with the USGS report (attached). The API document quotes a regional EPA administrator as saying, "The concentrations (of MTBE) you find are substantially below anything that we would remotely consider a human health risk."

The USGS report points out that gasoline blended with MTBE may pose a greater risk to drinking water than non-oxygenated gasoline, because MTBE is soluble in water, plus it resists soil filtration and decay compared to other gasoline components. These concerns are not new, as Marketing raised the same issues ten years ago in connection with the Tank Integrity Program. Marketing does not believe that the urban shallow-ground-water MTBE contamination described in the USGS report is an urgent or significant threat to public health.

Marketing believes that the MTBE in groundwater issue is just one more additional justification for the large Marketing capital investment in avoiding terminal and service station leaks and spills. While the USGS report will be used by anti-MTBE organizations, we do not currently expect the report to generate substantial additional interest in regulating or restricting MTBE use in gasoline in the short term.

In Mr. Hartung's memo, he mentions that ARCO announced that it is embarking on their own MTBE/groundwater test program, and that ARCO encouraged others to do independent testing on their own areas of concern. We do not recommend that Chevron begin a groundwater testing program for MTBE. The Alternative Fuels group and CRTC will take the lead roles monitoring the MTBE-in-groundwater issue, and inform you of significant future developments.

D.C. SMITH

cc: B.D. Frolich
R.E. Zalesky
R.M. Wilkenfeld
L.S. Shushan

J.B. Krider
F. Sam
C.L. Blackwell

CONFIDENTIAL: This document is subject to the September 1998 Stipulated Protective Order entered by the San Diego Superior Court, Case No. 999128.

CHEV 05694

COSEA REFINING 575 SF

05/02/95 TUE 12:41 FAX 415 894 3037



Oct 17 2005
9:03PM

Wallace
King
&
Domike
Branson

WALLACE KING DOMIKE & BRANSON, PLLC
1050 THOMAS JEFFERSON STREET, N.W.
WASHINGTON, DC 20007

Phone 202.204.1000
Fax 202.204.1001

William F. Hughes
Direct Dial 202.204.3727
bhughes@wallaceking.com

October 17, 2005

Via LexisNexis File & Serve

Robin L. Greenwald
Weitz & Luxenburg, P.C.
180 Maiden Lane, 17th Floor
New York, New York 10038-4925

Re: In re: MDL 1358 Products Liability Litigation

Dear Ms. Greenwald:

On behalf of the Chevron Defendants, this letter provides information responsive to Judge Scheindlin's August 12, 2005 directive regarding disclosure of involvement in national and regional trade associations on issues related to oxygenates and/or underground storage tanks ("USTs"). Based upon their investigation thus far, the Chevron Defendants provide the following information:

American Petroleum Institute

Defendant Chevron Corporation¹ has been a member of the American Petroleum Institute ("API") since a date prior to the relevant time. On various occasions during the relevant time period, certain employees of Chevron Corporation and/or affiliated entities, including defendant Chevron U.S.A. Inc., participated in various API committees that may have addressed certain matters related to oxygenates and/or USTs. These committees include: (1) Ad Hoc MTBE Coordination Group; (2) Soil/Groundwater Technical Task Force; (3) MTBE Research Group; (4) RFG Certification Work Group; (5) Ad Hoc RFG Certification Protocol Subgroup; (6) Section 211(b) Research Group; (7) Ad Hoc Oxygenates Group; (8) Clean Air Act Ad Hoc Committee on PPC; (9) Toxicology Committee; (10) Petroleum Industry Workgroup on Methanol Research; (11)

¹ Chevron Corporation has operated under several names during the relevant time period: (1) Standard Oil Company of California (from a date prior to 1979 until July 1984), (2) Chevron Corporation (July 1984-Oct. 2001 and May 2005-present), and (3) ChevronTexaco Corporation (Oct. 2001-May 2005). These entities are referred to collectively herein as Chevron Corporation.

Wallace
King
Donike
Branson

Robin L. Greenwald
October 17, 2005
Page 2

Fuels Committee; (12) Fuels Task Force; (13) Water Subcommittee Water Quality and Water Protection Task Force; and/or (14) Vehicle Emissions Task Force.²

Western States Petroleum Association

Defendant Chevron Corporation and/or affiliated entities have belonged to the Western States Petroleum Association ("WSPA") since a date prior to the relevant time period.³ On various occasions during the relevant time period, employees of Chevron Corporation and/or affiliated entities participated in the following WSPA committees that may have addressed certain matters related to oxygenates and/or USTs: (1) MTBE Task Force; (2) Ad Hoc MTBE Task Force; (3) Ad Hoc WSPA MTBE Treatability Task Force; (4) RFG Advocacy Task Force; (5) Fuels Subcommittee RFG Compatibility Issues Technical Task Force; (6) Ad Hoc RFG Group; (7) Remediation Task Force; (8) Toxic Air Contaminant Task Force; and/or (9) Ad Hoc Group on MTBE.

Other Industry Organizations

On various occasions during the relevant time period, Chevron Corporation and/or affiliated entities (including defendant Chevron U.S.A. Inc.) were members of and/or participated in the following industry associations that may have addressed certain matters involving oxygenates and/or USTs: (1) Independent Petroleum Association of America; (2) Interstate Technology Resource Council; (3) National Petrochemical Refiners Association; (4) National Petroleum Council; (5) Petroleum Environmental Research Forum; (6) Reformulated Gasoline Survey Association; (7) Resource Environmental, LLC; (8) Society of Automotive Engineers; (9) Society of Independent Gasoline Marketing America; (10) Western Petroleum Marketers Association; and/or (11) certain divisions of U.S. Oil & Gas.

The Chevron Defendants provide this information to the best of their knowledge. The Chevron Defendants are continuing their investigation and reserve the right to amend and/or supplement this response should they discover additional information.

² Prior to 1984, defendant Chevron U.S.A. Inc. was known as Gulf Oil Corporation. From a date prior to the relevant time period until approximately 1984, Gulf Oil Corporation was a member of API. Defendant Texaco Inc. was a member of API from a date prior to the relevant time period until 2001.

³ Prior to 1988, WSPA was known as the Western Oil and Gas Association.

Wallace
King
Dorville
Branson

Robin L. Greenwald
October 17, 2005
Page 3

Sincerely,

William F. Hughes ^{LA}

William F. Hughes

cc: All Counsel (via LNFS)

Exhibit 9

Legal Retention at MSXSOC

From: Stanley CC (Curtis) at MSXWHWTC
 Sent: Wednesday, May 13, 1998 11:49 PM
 To: Parkinson CD (Chris) at OPC
 Cc: Gustafson JB at SHELL RESEARCH THORNTON; Sykes RM at SIEP
 Subject: MTBE issues

Chris,

I'm sorry that it has taken me awhile to get back to you on MTBE issues. I know that you are beginning to feel the heat (it will get much hotter). As you are aware, **MTBE is one of the biggest environmental issues that US oil companies are facing** due to 1) MTBE's wide occurrence in groundwater, 2) MTBE's high migration potential, 3) MTBE's impact on several high visibility municipal well systems, 4) MTBE's very low odor and taste thresholds, and 5) the difficulty and high cost associated with treating MTBE in water. My first association with MTBE was in 1980 at Rockaway, NJ where 4,000 people were tasting ether (MTBE and DIPE) in their water supplied from a municipal well. The problem in the US is now much worse. I hope that the following information will help put the issue in perspective for you. As you are reviewing this information and have any questions, please feel free to call me.


 Cal EPA Brfg 3 98.doc


a very well written and balanced paper from a state perspective


 MTBE research table
 4-98.doc

This is MTBE research conducted by API's Soil/Groundwater Technical Task Force which I chair


 EPA MTBE Prof. 88


 state activities


 RW California MTBE
 Advisory P...

California activities mandated by the legislature


 MTBE editorial.doc

This is an editorial that the National Ground Water Association requested that I write for the Association of Ground Water Scientists and Engineers (May/June issue 1998)


 mtbeapi.doc

This is an API fact sheet from my Task Force


 MTBE National
 Perspective 3.pp...

This is a presentation that I have made to Shell Mgmt



EQ 028732



This is a table that I modified from some of John's work for my editorial



This is an MTBE remediation presentation that I made to Shell's remediation managers

In addition to the above references, I am in the process of writing two papers on MTBE considerations for RBCA. These papers will be presented 1) next week at the Battelle Conf on Recalcitrant Compounds, and 2) at the NGWA conf on MTBE in LA in June. We are also conducting work with decision analysis tools to help guide our remediation efforts for MTBE.

I'm sure this is much more than you bargained for, but like I said, if you have any questions, I'm only a call away.

Best Regards,

Curtis C. Stanley

Environmental Technology Directorate - Soil and Groundwater

Westhollow Technology Center

(phone-☎) 281-544-7675 (fax-☎) 281-544-8727

e-mail: cstanley@rhelius.com

(This communication per applicable agreements between our respective companies.)

Legal Retention at MSXSOC

From: Stanley CC (Curtis) at MSXWHWTC
 Sent: Tuesday, November 03, 1998 12:21 AM
 To: Pedley JF (Joanna) at MSXWHWTC; Benton F R (Newcos)
 Cc: Mcarragher S (Steve) at OPC
 Subject: RE: MTBE IN GROUNDWATER - ISSUES BRIEF

I am out of the office and will return on Thursday. Based on a quick review of the attached material, there are several points that need to be made.

1) Very small releases of MTBE (even small overfills seeping into cracks in the pavement) have the potential to adversely impact groundwater

2) Based on engineering reliability studies, it is likely that a high percentage of sites using MTBE, have a soil and/or groundwater problem. This problem is not just the result of leaking tanks, lines, fills, and dispensers, but is also a result of certain operations.

3) Due to MTBE's high solubility and low attenuation rates, it has the potential to migrate large distances relative to benzene (see attached paper)

4) Those sites which are located over potable groundwater are potentially very high risk sites.

5) Odor and taste will drive the cleanup goals rather than risk. We are currently looking at cleanup goals between 5-15ppb.

6) Once in groundwater, MTBE is extremely difficult to remediate. It's Henry's Law coefficient is very low which means that MTBE prefers to stay in the aqueous phase rather than being sorbed or stripped out of water. Air sparging will be relatively ineffective. We are currently evaluating biological and oxidation remediation techniques.

7) A simple risk assessment for all sites (like we are in the process of developing) will greatly help focus future resources.

My professional opinion is that MTBE and similar oxygenates should not be used at all in areas where groundwater is a potential drinking water supply. If it is used, engineering design and site operations (including active subsurface monitoring) should be carefully developed to minimize the potential for a release.

Curt



Original Message

From: Pedley JF (Joanna) at MSXWHWTC
 Sent: Monday, November 02, 1998 6:24 PM
 To: Benton F R (Newcos)
 Cc: Stanley CC (Curtis) at MSXWHWTC; Mcarragher S (Steve) at OPC
 Subject: FW: MTBE IN GROUNDWATER - ISSUES BRIEF

Ron -

As discussed earlier today, grateful for your comments (US perspective additions ?) on the attached. Also by copy to Curtis - please could you review also.

nb: Steve had some sections highlighted in red in his original. I have made a few first pass suggested mods which are in blue with strikeouts of the original in black. Please feel free to change my mods.

From: Joanna Pedley
 Equilon Enterprises LLC

Manager Fuels Technology
 Westhollow Technology Center - M2603
 Tel: 281 544 7795
 Fax: 281 544 8585
 email: jfpedley@shellus.com
 jfpedley@equilon.com

THIS COMMUNICATION PER APPLICABLE AGREEMENTS BETWEEN OUR RESPECTIVE COMPANIES

From: McArragher, Steve SIPC-OBMF/51
 Sent: Tuesday, October 27, 1998 8:30 AM
 To: Pedley, Joanna SHLOIL-; Lee, Rob SHLOIL-
 Cc: Wynn-Williams, William SIPC-OBX
 Subject: MTBE IN GROUNDWATER - ISSUES BRIEF

Joanna, Rob, as discussed with Rob last week, we are starting to worry about the MTBE contamination issue outside

êMSG FROM: WH889CCS--VM19 TO: MK59MDM--VM01
To: MK59MDM --VM01

07/15/93 07:28:39

*** Reply to note of 07/14/93 19:23
Curtis C. Stanley
Staff Hydrogeologist - Environmental RD&T
Subject: Bolsa Chica @ Edinger, Huntington Beach

Sounds like you guys are covering the bases as best as you can. We need to convince management to implement dual containment NOW!

Curtis C. Stanley
Staff Hydrogeologist - Environmental RD&T
Profs Nickname: HYDRO1 Location: WRC ET-102
Bell: 493-7675 SSN: 433-7675

ÿÿÿÿBolsa Chica @ Edinger, Huntington Beach
êMSG FROM: MK59MDM --VM01 TO: WH889CCS--VM19
To: WH889CCS--VM19

Rÿÿ
07/14/93 19:23:54

*** Reply to note of 07/14/93 08:32
From: DAN MCGILL, MDM1
Subject: Bolsa Chica @ Edinger, Huntington Beach
The tanks were single wall with single wall lines (two of the lines were also leaking under the dispensers). We need some help out here... this stuff is going to greatly increase the cost of our clean-ups. The one good note is that MTBE is acting as a tracer for leaks - this is the second time that our lab data has indicated that we we having an on going release. Our lab "screens" all of our groundwater samples for MTBE and gives me a call if MTBE shows up some where we have not seen it before.

cc: MK40PJP --VM01 P J PUGNALE

M. DANIEL MCGILL
ENVIRONMENTAL ENGINEER
ANAHEIM, CALIFORNIA
SSN 520-3370

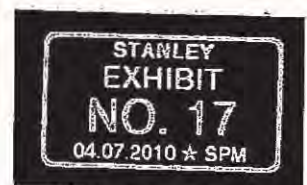
ÿÿÿÿBolsa Chica @ Edinger, Huntington Beach
êMSG FROM: WH889CCS--VM19 TO: WH889ALO--VM19
To: WH889ALO--VM19 A L OTERMAT

Rÿÿ
07/15/93 11:22:36

Curtis C. Stanley
Staff Hydrogeologist - Environmental RD&T
Subject: Tech. Assurance Paragraph for Waste Site Manager's Meeting

Per Environmental RD&T's technical assurance role in Product's, a draft paper describing componenets for achieving technical assurance at waste sites was presented. Copies of this document will be distributed to all waste site managers for comments. A key component for technical assurance is based around waste site technical teams on higher priority sites. These teams will function in much the same way that groundwater teams work at manufacturing locations. Comments will be reviewed at the next Waste Sites Team Meeting and a final document will then be prepared.

Curtis C. Stanley
Staff Hydrogeologist - Environmental RD&T
Profs Nickname: HYDRO1 Location: WRC ET-102
Bell: 493-7675 SSN: 433-7675



Legal Reference at MSXWHWC
From: Stanley CC (Curtis) at MSXWHWC
Sent: Thursday, May 14, 1998 10:25 AM
To: Bell, Kathy; Boschetto, Brad; Broussard, Gweneyette; Chiang, Chen, Chou, Chi-su; Daly, Phil; Darmer, Ken; Dedoes, Robert; Deeley, George; Devaul, George; Dinkfeld, Edward; Dorn, Phil; Dove, John; Ettinger, Robert; Farrier, Daniel; Franceschini, Timothy; Gallagher, Michael; Gilmore, Kathleen; Green, Tom; Hansen, Erik; Hastings, Robert; Hong, Marjorie; Hsu, Ed; Ivie, Jerry; Jacobs, Joe; Krewinghaus, Bruce; Lewis, Richard; Lieder, Chuck; Lyons, Karen; Marshall, Glen; Miller, Jim; Miller, Jonathan; Neaville, Chris; Otermat, Art; Pugnale, Pete; Register, Allen; Rhodes, Ileana; Salanitro, Joe; Schroder, Richard; Sepesi, John; SHELTON, CHARLES; Spinelle, John; Spinnler, Gerard; Springer, Ken; Stearns, Steve; Sun, Paul; White, Christine
Cc: Gustafson JB at SHELL RESEARCH THORNTON; Parkinson CD (Chris) at OPC
Subject: FW: MTBE CONTAMINATION

This article highlights the issue around leak detection and backs up our research that extremely small releases can cause groundwater problems. I think that this issue may cause us to reevaluate how we do leak detection in environmentally sensitive areas

Curtis C. Stanley

Environmental Technology Directorate - Soil and Groundwater
Westhollow Technology Center
(phone-@) 281-544-7675 (fax-@) 281-544-8727
e-mail: ccstanley@shellus.com

(This communication per applicable agreements between our respective companies.)

-----Original Message-----

From: Judy Shaw [SMTP:shaw@api.org] <mailto:[SMTP:shaw@api.org]>
Sent: Thursday, May 14, 1998 7:55 AM
To: Al Jessel; Brian Hamey; Carol Fairbrother; Curt Stanley; Dave Peirce; David Smith; Don Gilson; Eric Vogt; Gene Mancini; Georgia Callahan; Gerry Raabe; Gweneyette Broussard; James Rocco; Jeff Sickenger; Jim Ford; Jim Stevenson; John Taunton; Lee Hoffman; Mark Saperstein; Mary Kate Kell; Mike Wang; Ned Seppi; Ron Benton; Tim Buscheck; William Doyle
Cc: Alexis Steen; Bill Bush; Bill Frick; Bob Greco; bruce bauman; Carol Henry; Chuck Krambuhl; David Deal; David Lax; Debi Tulou; Dee Gavora; Eldon Rucker; Howard Feldman; Jim Williams (MDM); Karen Inman; Kim Ashton; Larry Magni; Marc Meteyer; Martha Jordan; Molly Sinclair; Rick Brown; Robert Barter; Ron Chittim; Theresa Pugh; Tom Lareau; Valerie Ughetta
Subject: FW: MTBE CONTAMINATION

FYI, more info on Maine. Judy

> -----
> From: Bruce Bauman
> Sent: Wednesday, May 13, 1998 3:21 PM
> To: Kim Ashton; Judy Shaw; Robert Barter; Molly Sinclair
> Cc: Creg Smith; Larry Magni; Denise McCourt
> Subject: RE: MTBE CONTAMINATION
>
> Here are links to the Monday and Tuesday articles if you want any gory
> details. Look like they will have fun with this one.
> The Monday article notes that this is a new gas station that just
> opened in July 1997, so this incident, if tied to this facility, will
> likely raise questions (again) about the adequacy of fully upgraded
> USTs and their leak detection systems to prevent releases and to
> detect them properly. It seems this release was only detected through
> some on-site wells drilled for a proposed property transfer. . . .
>
>
> <http://www.portland.com/monews/story3.htm>
>
> <http://www.portland.com/tunews/story5.htm>
>



SH 032805

Legal Retention at MSXSOC

From: Stanley CC (Curtis) at MSXWHWTC
Sent: Tuesday, February 02, 1999 6:28 PM
To: Benton F R [Newcos]
Subject: RE: Draft WSPA Q&A on MTBE

Ron,

The paper looks fine. You may, however, want to carefully consider what you say when the new tank upgrades are our first line of defense. While this is very true and the size of leaks has decreased substantially over the years, we are still finding MTBE at sites that have been upgraded. The presence of MTBE may not be due to a leak but could also be due to operational and construction factors.

Curt

-----Original Message-----

From: Benton F R [Newcos]
Sent: February 02, 1999 7:48 AM
To: Kulakowski James M [Texaco]; Olejnik Larry J [Newcos]; Hancock Steve R [Newcos]; Molina Bert [Newcos]; Meeuwsen Mike J [Newcos]; Stanley CC (Curtis) at MSXWHWTC
Subject: Draft WSPA Q&A on MTBE

Please let me know if you have any input/concerns.

-----Original Message-----

From: DMFog@aol.com [SMTP:DMFog@aol.com]
Sent: Friday, January 29, 1999 7:34 PM
To: frbenton@equiva.com
Subject: Oops!

Ron:

I'm a cyber-dummy. Accidentally pushed the delete instead of the print button on your email comment on the MTBE Q&A. Please resend. Attached is the latest draft which reflects all other comments.

Dave << File: Q&A.DOC >>



<p>Page 1</p> <p>1 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA 2 IN AND FOR THE COUNTY OF SAN FRANCISCO 3 --o0o-- 4 SOUTH TAHOE PUBLIC UTILITY) DISTRICT,) 5) Plaintiff,) 6) vs) No. 999128 7) VOLUME I ATLANTIC RICHFIELD COMPANY) 8 ("ARCO"); ARCO CHEMICAL COMPANY;)) SHELL OIL COMPANY; CHEVRON) 9 U.S.A., INC.; EXXON CORPORATION;)) B.P. AMERICA, INC.; TOSCO) 10 CORPORATION; ULTRAMAR, INC.;) BEACON OIL CO.; USA GASOLINE) 11 CORPORATION; SHELL OIL PRODUCTS) CO.; TERRIBLE HERBST, INC.;) 12 ROTTEN ROBBIE; J.E. TVETEN) CORP.; TAHOE TOM'S GAS STATION;)) 13 THE SOUTHLAND CORP.; PARADISE) CHEVRON; and DOES 1 through 600.) 14 inclusive,) 15 Defendants.)</p> <hr/> <p>16 --o0o-- 17 THURSDAY, MAY 6, 1999 18 10:03 A.M. 19 --o0o-- 20 DEPOSITION OF 21 CURTIS STANLEY 22 --o0o-- 23 24 CATHLEEN SLOCUM, CSR 25 License No. 2822</p>	<p>Page 3</p> <p>1 iii 2 COUNSEL 3 4 For the Defendant BP Exploration and Oil, Inc.: BROBECK, PHLEGER & HARRISON, LLP BY: WILLIAM K. DIAL, ESQ. 5 555 South Hope Street Los Angeles, California 90071 6 7 For the Cross-Defendant Keith A. Tallia, Inc.: 8 HEWITT & PROUT BY: MICHAEL J. LeVANGIE, ESQ. 9 980 Ninth Street, Suite 1700 Sacramento, California 95814 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>
<p>Page 2</p> <p>1 ii 2 COUNSEL 3 4 For the Plaintiff: 5 MILLER, SHER & SAWYER BY: DUANE C. MILLER, ESQ. 7 Park Center Drive, Suite 1 6 Sacramento, California 95825-5407 7 For the Defendants Shell Oil Company, Shell Products Company, Equilon Enterprises, LLC, Exxon Corporation, 8 Texaco, Inc., and Tesoro Petroleum Corporation: 9 McCUTCHEEN, DOYLE, BROWN & ENERSEN, LLP BY: COLLEEN P. DOYLE, ESQ. 10 355 South Grand Avenue, Suite 4400 Los Angeles, California 90071 11 12 For the Defendant Chevron USA: LANDELS, RIPLEY & DIAMOND, LLP 13 BY: RICHARD C. COFFIN, ESQ. 350 The Embarcadero San Francisco, California 94105-1250 14 For the Defendant Atlantic Richfield Company: 15 ARNOLD & PORTER BY: HILARY L. ADEL, ESQ. 16 777 South Figueroa Street, 44th Floor Los Angeles, California 90017-5844 17 18 For the Defendant Terrible Herbst, Inc.: 19 PRICE, POSTEL & PARMA BY: CRAIG A. PARTON, ESQ. 20 200 East Carrillo Street Santa Barbara, California 93101 21 For the Defendant ARCO Chemical Company: 22 STEPTOE & JOHNSON, LLP BY: KEVIN C. MAYER, ESQ. 23 633 West Fifth Street, Suite 700 Los Angeles, California 90071 24 25</p>	<p>Page 4</p> <p>1 iv 2 I N D E X 3 EXAMINATION Page 4 By Mr. Miller 5 5 Certified Questions vi 6 Reporter's Certificate 181 7 --o0o-- 8 E X H I B I T S 9 Plaintiff's Page 10 1 MTBE White Paper 9 11 2 Memo from CC Stanley to PL Cuneo 17 12 3 Page 6 of Presentation to the 25 OEL Committee dtd July 18, 1986 13 14 4 Memo to Groundwater Technical Task 39 Force from David H. Chen dtd February 2, 1987 with attachments 15 16 5 Letter to Dr. Jay Lehr from 57 D.H. Chen dtd January 28, 1987 17 6 Paper on Methyl Tertiary Butyl 51 Ether as a Ground Water Contaminant 18 by Peter Garrett, Marcel Moreau 19 6a Better copy of Exhibit 6 64 20 7 Inside EPA - February 13, 1987 67 21 8 Memo to Groundwater Technical 79 Task Force from David H. Chen 22 dtd July 11, 1986 23 8a Memo to Groundwater Technical 80 Task Force from David H. Chen 24 dtd January 14, 1987 with attachment 25</p>

<p style="text-align: right;">Page 125</p> <p>1 Okay. I'll identify it. It's dated Wednesday, 2 May 13, 1998. And you appear to be the author. It says 3 from CC Stanley. Is this your document? 4 A It appears to be. 5 Q It was sent to Mr. Parkinson. Who is he? 6 A I believe he is a person that works in The Hague. 7 Q And it says Mr. Parkinson is at OPC. What does that 8 refer to? 9 A I'm not sure exactly what that means. 10 Q Okay. Is this a communication you would have sent to 11 him in May of 1998, sir? 12 A It appears so. 13 Q And, of course, at the time you would have been a Shell 14 employee? If you're writing to The Hague, I don't know, 15 but -- 16 A I still do. 17 Q Oh. 18 MS. DOYLE: Say you don't know. 19 THE WITNESS: I was either Shell or Equilon. 20 MR. MILLER: Q Does July sound familiar, is that 21 D-day when they switched to Equilon? 22 A I thought it was the beginning of the year, but I'm not 23 sure. 24 Q All right. Whatever. We'll figure that out later. 25 A Okay.</p>	<p style="text-align: right;">Page 127</p> <p>1 <u>one of the biggest environmental issues that US oil</u> 2 <u>companies are facing today, you give five reasons, correct?</u> 3 A <u>Yes.</u> 4 Q <u>The first is, "MTBE's wide occurrence in groundwater"?</u> 5 A <u>Yes.</u> 6 Q <u>The second is, "MTBE's high migration potential"?</u> 7 A <u>Relative to benzene, yes.</u> 8 Q <u>The third is, "MTBE's impact on several high visibility</u> 9 <u>municipal well systems," correct?</u> 10 A <u>Yes.</u> 11 Q <u>What high visibility municipal well systems were you</u> 12 <u>talking about?</u> 13 A <u>I may have been referring to sites like Rockaway or</u> 14 <u>even Santa Monica.</u> 15 Q <u>Okay. Four, the fourth reason you give, "MTBE's very</u> 16 <u>low odor and taste thresholds," correct?</u> 17 A <u>That's what I say.</u> 18 Q <u>And five, "The difficulty and high cost associated with</u> 19 <u>treating MTBE in water"?</u> 20 A <u>Relative to benzene, yes.</u> 21 Q <u>The quote is, "The difficulty and high cost associated</u> 22 <u>with treating MTBE in water," end quote?</u> 23 A <u>That's true, but my intent to him was other than</u> 24 <u>benzene.</u> 25 Q Okay. I have some questions about this.</p>
<p style="text-align: right;">Page 126</p> <p>1 Q Mr. Parkinson's first name apparently is Chris? 2 A Yes. 3 Q So the letter begins, "Chris, I'm sorry that it has 4 taken ... awhile to get back to you on MTBE issues. I know 5 that you are beginning to feel the heat (it will get much 6 hotter)." By the way, were you referring to the temperature 7 or something else? 8 A I don't remember what I was referring to. I'd have to 9 see the note he sent to me. 10 Q <u>Well, let's continue with the next sentence. That</u> 11 <u>might help us. "As you are aware, MTBE is one of the</u> 12 <u>biggest environmental issues that US oil companies are</u> 13 <u>facing..."</u> 14 A <u>Yes, I see that.</u> 15 Q <u>That was your statement at the time?</u> 16 A <u>Yes.</u> 17 Q <u>And when you write to The Hague, I mean, that's where</u> 18 <u>the head of the company is, right?</u> 19 A <u>Among other --</u> 20 Q <u>Royal Dutch Shell?</u> 21 A <u>Partly.</u> 22 Q <u>So you tried to be accurate in writing this: is that</u> 23 <u>correct?</u> 24 A <u>I always try to be accurate.</u> 25 Q Okay. All right. So you go on to state why MTBE is</p>	<p style="text-align: right;">Page 128</p> <p>1 A Okay. 2 Q Why were you writing to someone in The Hague 3 identifying the significance of the MTBE problem for US oil 4 companies? 5 A I don't recall specifically without seeing his note 6 that I was responding to. 7 Q When you talk about MTBE having a high migration 8 potential, what you're saying is that it's very mobile in 9 groundwater, correct? 10 A Relative to BTEX. 11 Q And when you say it has a very low odor and taste 12 threshold, you're saying it can make the taste of water 13 unpleasant, correct? 14 A At some concentration that would be true. 15 Q And it would have a bad odor as well? 16 A At some concentration. 17 Q Okay. And you're not an expert at what that 18 concentration would be, that's not your field? 19 A That's right. 20 Q But you've heard complaints from people that have drank 21 water containing MTBE firsthand, haven't you? 22 A Yes. 23 Q Some of them were upset? 24 MS. DOYLE: Objection. Calls for speculation. 25 THE WITNESS: I don't recall.</p>

Wallace
King
Domike
Branson

WALLACE KING DOMIKE & BRANSON, PLLC
1050 THOMAS JEFFERSON STREET, N.W.
WASHINGTON, DC 20007

Phone 202.204.1000
Fax 202.204.1001

PETER C. CONDRON
Direct Dial 202.204.3707
pcondron@wallaceking.com

October 17, 2005

VIA LEXIS/NEXIS FILE AND SERVE

Robin L. Greenwald, Esq.
Weitz & Luxenburg, P.C.
180 Maiden Lane, 17th Floor
New York, New York 10038-4925

Re: **In re: MDL 1358 Products Liability Litigation**

Dear Ms. Greenwald:

On behalf of the Shell Defendants, this letter provides information responsive to Judge Scheindlin's August 12, 2005 directive regarding disclosure of participation in national and regional petroleum industry trade associations that focus on issues related to oxygenates and/or underground storage tanks ("USTs"). Based upon their investigation thus far, the Shell Defendants submit the following membership information:

American Petroleum Institute (API)

Shell Oil Company has been a member of API from 1950 through the present. During this period, representatives of Shell Oil Company and/or its various affiliates and subsidiaries may have participated in the following subcommittees and task forces: the 211(b) Research Group, the Ad Hoc Committee on MTBE, the Ad Hoc MTBE Coordination Group, the Fuels Committee, the Fuels Group Program, the Fuels Task Force, and the Soil/Groundwater Technical Task Force.

Louisiana Mid-Continent Oil & Gas Association (LMOGA)

Shell Oil Company and members of its various affiliates and subsidiaries, including Equiva Enterprises, Motiva Enterprises and Shell Oil Products US f/k/a Equilon Enterprises, have been members of LMOGA since at least 1980. During this period, representatives of Shell Oil Company and/or its various affiliates and subsidiaries may have participated in the Subcommittee on Air that was originally formed to consider the Clean Air Act Amendments of 1990.

Wallace
King
Domike
Branson

Robin L. Greenwald
October 17, 2005
Page 2

Mid-Continent Oil and Gas Association

Shell Oil Company and/or its various affiliates and subsidiaries are current members of the Mid-Continent Oil and Gas Association.

National Petrochemical and Refiners Association (NPRA)

Shell Oil Company has been a member of NPRA from 1999 through the present.

National Petroleum Council (NPC)

Shell Oil Company and/or its various affiliates and subsidiaries have been members of NPC since 1946.

Petroleum Environmental Research Forum (PERF)

Shell Oil Company and/or its various affiliates and subsidiaries are current members of PERF.

Petroleum Marketers Association of America (PMAA)

Shell Oil Company has never been a member of PMAA. Shell Oil Company does support PMAA, though, through a corporate sponsorship.

Reformulated Gasoline Survey Association

Shell Oil Company and/or its various affiliates and subsidiaries are current members of the Reformulated Gasoline Survey Association.

Society of Independent Gasoline Marketers of America (SIGMA)

Shell Oil Company and/or its various affiliates and subsidiaries have been members of SIGMA since 1992 through the present.

Western Petroleum Marketers Association (WPMA)

Shell Oil Company and/or its various affiliates and subsidiaries, excluding Motiva Enterprises and Equiva Enterprises, are current members of WPMA.

Western States Petroleum Association (WSPA)

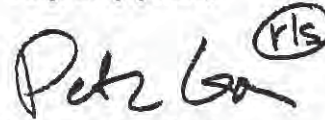
Shell Oil Company has been a member of WSPA since a date prior to the relevant time period. During this time, representatives of Shell Oil Company and/or its various affiliates and subsidiaries may have participated in the MTBE Task Force subcommittee.

Wallace
King
Domike
Branson

Robin L. Greenwald
October 17, 2005
Page 3

The Shell defendants have provided this information, including dates of membership, to the best of their knowledge. The Shell defendants are continuing their investigation and reserve the right to supplement this response should they discover additional information.

Very truly yours,



Peter C. Condrón

cc: Counsel of Record (via LexisNexis File and Serve)

<p style="text-align: right;">Page 1</p> <p style="text-align: center;">1 2 DEPOSITION 3 OF 4 CARSON C. CONAWAY 5 (A Non-Party Witness)</p> <p>DATED: November 17, 2000 White Plains, New York 10:00 a.m.</p> <p>Patrick M. DeGiorgio, Reporter</p> <p>SUPERIOR COURT OF THE STATE OF CALIFORNIA IN AND FOR THE COUNTY OF SAN FRANCISCO ----- X SOUTH TAHOE PUBLIC UTILITY DISTRICT, Plaintiff, against, Civil No. 999128 ATLANTIC RICHFIELD COMPANY ("ARCO"); ARCO CHEMICAL COMPANY; SHELL OIL COMPANY; CHEVRON U.S.A., INC.; EXXON CORPORATION; B.P. AMERICA, INC.; TOSCO CORPORATION; et al., Defendants. ----- X</p> <p>Mary T. Babiarz Court Reporting Service 11 Market St., Poughkeepsie, N.Y. 12601 (845) 471-2511</p>	<p style="text-align: right;">Page 3</p> <p>1 2 APPEARANCES: 3 4 MILLER, SHER & SAWYER, P.C. 5 Attorneys for Plaintiff, SOUTH TAHOE 6 PUBLIC UTILITY DISTRICT 7 100 Howe Avenue 8 Suite S-120 9 Sacramento, California 95825 10 BY: DUANE C. MILLER, ESQ. 11 12 SEDGWICK, DETERT, MORAN & ARNOLD 13 Attorneys for Defendants, SHELL OIL 14 COMPANY, SHELL OIL PRODUCTS COMPANY, 15 EQUILON ENTERPRISES, L.L.C., TEXACO, 16 INC. 17 One Embarcadero Center 18 16th Floor 19 San Francisco, California 94111-3628 20 BY: STEPHEN W. JONES, ESQ., 21 of Counsel 22 23 Also Present: 24 John Schoenberger, Videotape Operator 25 Legal Video Services</p>
<p style="text-align: right;">Page 2</p> <p style="text-align: center;">1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p> <p style="text-align: center;">2</p> <p>SUPERIOR COURT OF THE STATE OF CALIFORNIA IN AND FOR THE COUNTY OF SAN FRANCISCO ----- X COMMUNITIES FOR A BETTER ENVIRONMENT, a California Non-Profit Corporation, on behalf of the General Public, Plaintiff, against, Civil No. 997013 UNOCAL CORPORATION, a Delaware corporation et al., Defendants. ----- X</p>	<p style="text-align: right;">Page 4</p> <p style="text-align: center;">1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p> <p style="text-align: center;">4</p> <p>THE VIDEOTAPE OPERATOR: My name is John Schoenberger, videotape operator. I'm employed by Legal Video Services of Goshen, New York. We are retained by the firm of Miller, Sher & Sawyer of Sacramento, California to videotape the sworn testimony of Dr. Carson Conaway in the matter of South Tahoe Public Utility District, plaintiff, against Atlantic Richfield Company, et al, defendants. This proceeding is being conducted on behalf of the plaintiff. We are located at 80 Red Oaks Lane, White Plains, New York. Today is November 17, 2000. The time is 10:03 a.m. Counsel will now introduce themselves. MR. MILLER: Good morning, Dr. Conaway. My name is Duane Miller. I represent the plaintiff and I'm going to be taking your deposition this morning. MR. JONES: My name is Steve Jones and I'm</p>

<p style="text-align: right;">Page 5</p> <p>1 5</p> <p>2 attorney for Texaco, Equilon and Shell and</p> <p>3 for purposes of this deposition, Dr.</p> <p>4 Conaway.</p> <p>5 THE VIDEOTAPE OPERATOR:</p> <p>6 Will the court reporter please swear</p> <p>7 in the witness</p> <p>8 oOo</p> <p>9 CARSON C. CONAWAY, a non-party</p> <p>10 witness herein, after having been first duly</p> <p>11 sworn by Patrick M. DeGiorgio, a Notary</p> <p>12 Public of the State of New York, was</p> <p>13 examined and testified as follows:</p> <p>14 oOo</p> <p>15 EXAMINATION BY MR. MILLER:</p> <p>16 Q. Please state your name and business address.</p> <p>17 A. My name is Carson Clifford Conaway. I go by</p> <p>18 Cliff. My business address is the American</p> <p>19 Health Foundation, the region of molecular</p> <p>20 carcinogenesis and molecular epidemiology</p> <p>21 genealogy located at 1 Dana Road, Valhalla,</p> <p>22 New York 10595.</p> <p>23 Q. <u>Were you previously employed by Texaco?</u></p> <p>24 A. <u>I was employed by Texaco during the period</u></p> <p>25 <u>of May 1st, 1997 through June 30th, 1984.</u></p>	<p style="text-align: right;">Page 7</p> <p>1 CONAWAY 7</p> <p>2 1977 at which time I was hired by Texaco.</p> <p>3 Q. How many years of experience do you have in</p> <p>4 the field of toxicology and pharmacology?</p> <p>5 A. Well, not counting my formal training, it's</p> <p>6 about twenty-three years.</p> <p>7</p> <p>8 (NOTICE OF DEPOSITION WAS RECEIVED AND</p> <p>9 MARKED AS PLAINTIFF'S EXHIBIT 1 FOR</p> <p>10 IDENTIFICATION)</p> <p>11</p> <p>12 (INTEROFFICE CORRESPONDENCE DATED</p> <p>13 NOVEMBER 5TH, 1979 WAS RECEIVED AND</p> <p>14 MARKED AS PLAINTIFF'S EXHIBIT 2 FOR</p> <p>15 IDENTIFICATION)</p> <p>16</p> <p>17 Q. I've marked as Exhibit 1 a notice of this</p> <p>18 deposition. Exhibit 2 is a document dated</p> <p>19 November 5th, 1979. It's entitled</p> <p>20 interoffice correspondence and it reports</p> <p>21 that there was a meeting on October 9th,</p> <p>22 1979, a semiannual meeting of the Medicine</p> <p>23 and Biological Sciences Department of the</p> <p>24 American Petroleum Institute and it lists</p> <p>25 you in attendance. Did you participate in</p>
<p style="text-align: right;">Page 6</p> <p>1 CONAWAY 6</p> <p>2 MR. JONES:</p> <p>3 You said '97, Dr. Conaway.</p> <p>4 A. '77, excuse me.</p> <p>5 MR. MILLER:</p> <p>6 Q. And what is your field of expertise, Dr.</p> <p>7 Conaway?</p> <p>8 A. Well, during the period which I was employed</p> <p>9 by Texaco it was petroleum toxicology.</p> <p>10 Q. Could you describe your educational</p> <p>11 background for us, starting with college?</p> <p>12 A. I graduated 1960 from Southwestern College</p> <p>13 in Kansas with a BA in chemistry and minors</p> <p>14 in biology and mathematics. I attended Yale</p> <p>15 University School of Medicine for a year and</p> <p>16 a half studying preclinical medicine and</p> <p>17 received the MS degree in entomology, in</p> <p>18 particular insecticide toxicology in 1969</p> <p>19 from the University of Missouri. I received</p> <p>20 a Ph.D. degree from the University of</p> <p>21 Wisconsin, Madison in 1974 in entomology</p> <p>22 with research in insecticide and minor in</p> <p>23 biochemistry. I did a post-doctorate at the</p> <p>24 University of Colorado Medical Center in the</p> <p>25 Department of Pharmacology from 1974 through</p>	<p style="text-align: right;">Page 8</p> <p>1 CONAWAY 8</p> <p>2 that group at the time?</p> <p>3 A. Evidently I did.</p> <p>4 Q. About midway in the documents it states,</p> <p>5 "C.C. Conaway of Texaco was appointed</p> <p>6 chairman by consensus of a group that was</p> <p>7 interested in studying of toxicology in</p> <p>8 MTBE." Do you recall your participation in</p> <p>9 that group?</p> <p>10 A. To some extent, yes, I do.</p> <p>11 Q. Is it true you were appointed chairman of</p> <p>12 the group at the time?</p> <p>13 A. Yes.</p> <p>14 Q. Now, the document indicates that a number of</p> <p>15 individuals were present. In addition to</p> <p>16 yourself, including representatives of Exxon</p> <p>17 and Mr. Ridlon of Arco Chemical Company. Do</p> <p>18 you recall participating with other</p> <p>19 companies in making decisions about doing</p> <p>20 scientific studies on MTBE back in 1979?</p> <p>21 A. First I don't recall the time, but I've had</p> <p>22 a chance to look at the document and I don't</p> <p>23 have anything to add beyond what's basically</p> <p>24 in the document.</p> <p>25 Q. As a Texaco employee, did you participate in</p>

<p style="text-align: right;">Page 57</p> <p>1 CONAWAY 57</p> <p>2 A. That's the Medicine and Biological Sciences</p> <p>3 Division of API.</p> <p>4 Q. It goes onto state, "From this request a</p> <p>5 multi-disciplinary group was formed which is</p> <p>6 evaluating the saluibilities at different</p> <p>7 temperatures of these chemicals likely to be</p> <p>8 present. Company records reveal Benzene,</p> <p>9 toluene, xylenes, methyl tertiary-butyl</p> <p>10 ether, which would be MTBE, tertiary butyl</p> <p>11 alcohol and ethyltoluene are present at</p> <p>12 concentrations and in proportions which</p> <p>13 depend upon their water solubility. The</p> <p>14 distance from the contamination in a variety</p> <p>15 of other factors. Dr. Thomas added that</p> <p>16 MBSD is currently acting in an advisory</p> <p>17 capacity that may become more active later</p> <p>18 if testing is needed. TRC has been</p> <p>19 contacted to conduct a literature survey of</p> <p>20 potential health effects of contaminated</p> <p>21 groundwater and may perform experiments to</p> <p>22 model the plume of a gasoline spill." Do</p> <p>23 you see those entries concerning the meeting</p> <p>24 that you attended?</p> <p>25 A. I do.</p>	<p style="text-align: right;">Page 59</p> <p>1 CONAWAY 59</p> <p>2 industry to comply with the range of</p> <p>3 standards which it is considering." Were</p> <p>4 you aware of the fact that there were</p> <p>5 concerns by the EPA that underground storage</p> <p>6 tanks were leaking gasoline into the</p> <p>7 environment by this date which is 1984?</p> <p>8 MR. JONES:</p> <p>9 Objection to the form of the question.</p> <p>10 It's vague and ambiguous. Assumes facts not</p> <p>11 in evidence.</p> <p>12 A. <u>I do recall that there was concern at Texaco</u></p> <p>13 <u>during the period of my employ regarding</u></p> <p>14 <u>underground leaks from storage tanks and</u></p> <p>15 <u>water contamination.</u> I do not recall that</p> <p>16 EPA was evaluating the ability of industry</p> <p>17 to comply with standards.</p> <p>18 MR. MILLER:</p> <p>19 Q. Is it fair to say that you personally didn't</p> <p>20 have much interaction with the EPA or did</p> <p>21 you at the time you were employed by Texaco?</p> <p>22 A. I had no interaction with EPA.</p> <p>23 Q. So you weren't providing them with the</p> <p>24 information?</p> <p>25 A. No, I was not.</p>
<p style="text-align: right;">Page 58</p> <p>1 CONAWAY 58</p> <p>2 Q. Does that refresh your memory that MTBE was</p> <p>3 specifically brought up as a groundwater</p> <p>4 contaminant?</p> <p>5 A. I'm sorry, sir, I do not recall this</p> <p>6 meeting -- the discussions. I remember</p> <p>7 going to the hotel, but I don't remember the</p> <p>8 details of this meeting.</p> <p>9 Q. Thank you. I have no way of knowing if you</p> <p>10 happen to recall without asking. I do</p> <p>11 understand that you've explained on a number</p> <p>12 of occasions that time has gone by. But I</p> <p>13 need to ask, that's the only way I have of</p> <p>14 finding out if you happen to remember. If</p> <p>15 you could turn to the next page of the same</p> <p>16 minutes. Reports that the American</p> <p>17 Petroleum Institute, this is under TSCA,</p> <p>18 Toxic Substance Control Act section,</p> <p>19 "American Petroleum Institute has performed</p> <p>20 a group in response to the EPA's new program</p> <p>21 leaking underground storage tanks, LUST,</p> <p>22 which is attempting to evaluate the extent</p> <p>23 of underground storage tank leaks and</p> <p>24 associated problems, R.N. Roth reported.</p> <p>25 EPA is presently evaluating the ability of</p>	<p style="text-align: right;">Page 60</p> <p>1 CONAWAY 60</p> <p>2 Q. There's a reference to a report you gave on</p> <p>3 the next page under subsection F. Do you</p> <p>4 see that?</p> <p>5 A. Yes.</p> <p>6 Q. It says you presented a written summary,</p> <p>7 which is attachment 1, and if we go to</p> <p>8 attachment 1 the next page says program</p> <p>9 status on MTBE. Does this appear to be the</p> <p>10 summary that you would have provided at the</p> <p>11 time?</p> <p>12 A. Okay.</p> <p>13 Q. Does this appear to be a summary that you</p> <p>14 would have prepared at the time and provided</p> <p>15 to the committee?</p> <p>16 A. Yes.</p> <p>17 Q. If you look at the last paragraph, it</p> <p>18 states, "A final report of all work</p> <p>19 performed at Biodynamics is anticipated by</p> <p>20 March 1, 1984. No additional testing or</p> <p>21 research is planned at this time." Do you</p> <p>22 see that entry?</p> <p>23 A. Uh-huh.</p> <p>24 Q. Can I have a yes or no, please?</p> <p>25 A. Yes.</p>

<p style="text-align: right;">Page 1</p> <p>1 SUPERIOR COURT OF THE STATE OF CALIFORNIA IN AND FOR THE COUNTY OF SAN FRANCISCO</p> <p>2 SOUTH TAHOE PUBLIC UTILITY * 3 DISTRICT, * Plaintiff * 4 VS. * NO. 999128 5 * 6 ATLANTIC RICHFIELD COMPANY ("ARCO"); * ARCO CHEMICAL COMPANY; SHELL OIL * COMPANY; CHEVRON U.S.A., INC.; * 7 EXXON CORPORATION; B.P. AMERICA, * INC.; TOSCO CORPORATION; ULTRAMAR, * 8 INC.; BEACON OIL CO.; USA * GASOLINE CORPORATION; et al., * 9 Defendants * 10 SUPERIOR COURT OF THE STATE OF CALIFORNIA IN AND FOR THE COUNTY OF SAN FRANCISCO</p> <p>11 COMMUNITIES FOR A BETTER * 12 ENVIRONMENT, a California * Non-Profit Corporation, on behalf * 13 of the General Public, * Plaintiff * 14 VS. * CIVIL NO. 997013 15 * 16 UNOCAL CORPORATION, * 17 a Delaware Corporation, et al * 18 Defendants * 19 20 ***** 21 VIDEOTAPE DEPOSITION OF 22 PATRICK TOMLINSON 23 June 29, 2000 24 ***** 25</p>	<p style="text-align: right;">Page 3</p> <p>1 VIDEOGRAPHER: Ms. Suzy Price (for Dickman Davenport) 2 P.O. Box 1433 Alvin, Texas 77512-1433 3 713-977-9402 4 REPORTER: Ms. Kay Howell (for Dickman Davenport) 5 3801 Kirby, Suite 246 Houston, Texas 6 713-521-1117 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>
<p style="text-align: right;">Page 2</p> <p>1 VIDEOTAPE DEPOSITION OF PATRICK TOMLINSON, produced 2 as a witness at the instance of the plaintiff, was taken 3 in the above styled and numbered cause on June 29, 2000, 4 from 10:04 a.m. to 1:34 p.m., before Kay Howell, 5 Certified Shorthand Reporter in and for the State of 6 Texas, reported by machine shorthand, at Doubletree 7 Hotel, 400 Dallas Street, Houston, Texas 77002. 8 A P P E A R A N C E S: 9 FOR PLAINTIFF SOUTH TAHOE PUBLIC UTILITY DISTRICT: Mr. Duane C. Miller 10 Miller, Sher & Sawyer 100 Howe Avenue, Suite S120 11 Sacramento, California 95825-8218 12 FOR PLAINTIFF COMMUNITIES FOR A BETTER ENVIRONMENT: 13 Mr. Gabriel Reed Cooper & Scully 14 900 Jackson Street, Suite 100 Dallas, Texas 75202 15 FOR DEFENDANTS SHELL OIL CO., SHELL OIL PRODUCTS CO., 16 TEXACO, INC., EQUILON ENTERPRISES LLC, EXXON CORP. AND 17 TESORO PETROLEUM CORP. IN THE SOUTH TAHOE LAWSUIT: 18 FOR DEFENDANTS SHELL OIL CO., EXXON CORP., TEXACO REFINING & MARKETING, INC. AND CHERON USA, INC. IN THE 19 CBE LAWSUIT: Ms. Jill F. Cooper 20 McCutchen, Doyle, Brown & Enersen, L.L.P. 355 S. Grand Avenue, Suite 4400 21 Los Angeles, California 90071 22 ALSO PRESENT: 23 Mr. John W. Kampman Wallace King Marraro & Branson, PLLC 24 1050 Thomas Jefferson Street, N.W. Washington, D.C. 20007 25</p>	<p style="text-align: right;">Page 4</p> <p>1 I N D E X 2 Page/Line 3 Examination by Mr. Miller 7 15 4 Beginning of telephone conversation 44 10 5 Conclusion of telephone conversation 50 7 6 Changes and Witness Signature Page 101 1 7 Reporter's Certification 103 1 8 9 10 EXHIBITS 11 No. Description Page/Line 12 1 Amended notice of deposition 11 2 13 1A Notice of deposition 11 2 14 2 Letter dated January 24, 1996, from 12 11 Patrick W. Tomlinson to Dr. Bruce J. 15 Bauman of API with second page of letter missing and with attachments 16 3 Letter dated January 24, 1996, from 13 22 17 Patrick W. Tomlinson to Dr. Bruce J. Bauman of API 18 4 Letter dated May 4, 1990, to dear 28 1 19 customer from F. E. Bentley 20 5 Memo dated May 16, 1991, from Dr. R. B. ... 30 19 Borey to G. A. Weiss re special 21 procedures, MTBE and TANE 22 6 Memo dated 11/19/93 from Jack Hinton re .. 56 8 MTBE update 23 7A Memo dated January 20, 1997, from D. G. .. 63 3 24 Yetter/Michael Redemer re MTBE/Oxygenate issue update 25</p>

<p style="text-align: right;">Page 65</p> <p>1 budget allocations.</p> <p>2 Q. For things like research?</p> <p>3 A. Yes, and other API activities.</p> <p>4 Q. Have you been involved in any previous MTBE</p> <p>5 committees prior to joining that group in the mid-1998</p> <p>6 time frame?</p> <p>7 A. No.</p> <p>8 MS. COOPER: With respect to API?</p> <p>9 Q. (BY MR. MILLER) Have you been involved in any</p> <p>10 other industry committees of any kind concerning MTBE</p> <p>11 other than the one you mentioned that you started on in</p> <p>12 1998?</p> <p>13 A. No, sir.</p> <p>14 Q. Is it a part of your duties as an Equiva employee</p> <p>15 to be a part of that committee?</p> <p>16 MS. COOPER: Objection, vague.</p> <p>17 A. I wouldn't say it's part of my duties, but that's</p> <p>18 why I'm a member of that committee.</p> <p>19 Q. (BY MR. MILLER) All right. I would like to turn</p> <p>20 to a page concerning MTBE in this group. If you could</p> <p>21 go -- if you look at the Bates numbers which are the</p> <p>22 numbers at the bottom, look at page 1439 in the series,</p> <p>23 please.</p> <p>24 A. Okay.</p> <p>25 Q. This apparently is some type of power point or</p>	<p style="text-align: right;">Page 67</p> <p>1 A. Those are, to the best of my knowledge, and again</p> <p>2 I'm not an expert in this area. The people that work for</p> <p>3 me would be better served on this. But that is making</p> <p>4 use of understanding hydrogeology and the way that</p> <p>5 products and water and the land interact with each other</p> <p>6 and the associated risk with that.</p> <p>7 Q. Is it your understanding that risk base</p> <p>8 corrective action is basically developed by the industry?</p> <p>9 MS. COOPER: Objection, calls for</p> <p>10 speculation, lacks foundation, assumes facts not in</p> <p>11 evidence.</p> <p>12 A. No.</p> <p>13 Q. (BY MR. MILLER) Do you have an understanding of</p> <p>14 what is referred to here concerning MTBE water issues and</p> <p>15 cleanup issue when they say risk base corrective action</p> <p>16 strategies and cost savings endangered?</p> <p>17 MS. COOPER: Objection, calls for</p> <p>18 speculation.</p> <p>19 A. I could only guess that --</p> <p>20 MS. COOPER: You can't only guess.</p> <p>21 A. I can't? Then I don't know. I don't know</p> <p>22 specifically what is meant by this comment for this</p> <p>23 presentation.</p> <p>24 Q. (BY MR. MILLER) I understand that. I'm trying</p> <p>25 to find out if you have an understanding of the subject</p>
<p style="text-align: right;">Page 66</p> <p>1 slide presentation, and the top section is entitled Water</p> <p>2 Issues, Cleanup Issues. Do you see that?</p> <p>3 A. Yes, sir.</p> <p>4 Q. This API document states in three bullet points</p> <p>5 "MTBE slow to biodegrade." Do you see that first point?</p> <p>6 A. Yes, sir.</p> <p>7 Q. Have you seen any communications to indicate that</p> <p>8 that statement is incorrect as part of your current API</p> <p>9 work?</p> <p>10 MS. COOPER: Objection, vague, lacks</p> <p>11 foundation, assumes facts not in evidence.</p> <p>12 A. I can't recall seeing anything on this.</p> <p>13 Q. (BY MR. MILLER) And have you seen any</p> <p>14 communication as an employee of Equiva that says that</p> <p>15 that comment by the American Petroleum Institute is</p> <p>16 incorrect?</p> <p>17 MS. COOPER: Same objections.</p> <p>18 A. I can't recall seeing anything like that.</p> <p>19 Q. (BY MR. MILLER) The next bullet is -- I'm going</p> <p>20 to translate the abbreviation. Risk base corrective</p> <p>21 action strategies and cost savings endangered. Do you</p> <p>22 see that statement?</p> <p>23 A. Yes, I do.</p> <p>24 Q. Could you explain what risk base corrective</p> <p>25 action strategies are, please?</p>	<p style="text-align: right;">Page 68</p> <p>1 matter that is mentioned here from your many years of</p> <p>2 work in the oil industry and as a person who supervises</p> <p>3 people who deal with cleanup activities. If you could</p> <p>4 explain it from that perspective for us, please.</p> <p>5 MS. COOPER: The witness has already</p> <p>6 testified he has not seen this document. He wasn't a</p> <p>7 member of API at this time. So to the extent -- I object</p> <p>8 to the extent he would have to speculate in order to</p> <p>9 interpret or answer your question.</p> <p>10 A. I can say that what I'm -- what I know is that we</p> <p>11 don't have enough data about MTBE and how it moves and is</p> <p>12 affected in groundwater once it's released in order to</p> <p>13 determine a risk based strategy. <u>And these studies would</u></p> <p>14 <u>be in order to gather such data so that you could</u></p> <p>15 <u>determine what the actual risk would be, if any.</u></p> <p>16 Q. (BY MR. MILLER) So how does that endanger cost</p> <p>17 savings? Could you explain?</p> <p>18 MS. COOPER: Objection, asked and answered,</p> <p>19 calls for speculation, lacks foundation.</p> <p>20 A. There is risk base corrective action strategies</p> <p>21 for hydrocarbons, and those are the strategies that I</p> <p>22 believe are being referred to in common now.</p> <p>23 Q. (BY MR. MILLER) I'm just trying to understand</p> <p>24 why the cost savings associated with risk base corrective</p> <p>25 action would be endangered if MTBE becomes a chemical</p>

Page 69

1 that needs to be cleaned up in groundwater.
 2 MS. COOPER: Objection, asked and answered.
 3 Again, it calls for speculation. This witness did not
 4 prepare this document, has not seen this document before.
 5 You're asking him to interpret something written by
 6 someone else, an organization he was not a member of at
 7 the time. He's doing his best to answer questions that
 8 really are getting into speculation here.
 9 A. I'm not an expert in the regulations around risk
 10 base corrective actions, and I don't know the specifics
 11 of why it's endangered. I only know what I just told you
 12 generically.
 13 Q. (BY MR. MILLER) All right. The next bullet
 14 concerning MTBE water issues and cleanup issues is
 15 remediation costs 30 percent to 300 percent higher than
 16 for routine BTEX cleanups. Do you see that entry?
 17 A. Yes, I do.
 18 Q. And BTEX is kind of an abbreviation for some
 19 chemicals that are found in gasoline that sometimes need
 20 to be cleaned up. Is that correct?
 21 A. Yes.
 22 Q. Is it your understanding that it is recognized
 23 that the costs of cleaning up MTBE in groundwater are
 24 significantly higher than the costs of cleaning up BTEX?
 25 MS. COOPER: Objection, vague and ambiguous

Page 70

1 as to significantly higher, lacks foundation, assumes
 2 facts not in evidence.
 3 Q. (BY MR. MILLER) The range here is 30 to 300
 4 percent. I think anything in that range is significantly
 5 higher. So with that in mind, can you answer the
 6 question?
 7 A. No, that's not my understanding.
 8 Q. Could you explain what your understanding is,
 9 please?
 10 A. That we haven't determined yet all the strategies
 11 and the science that we're going to be able to use to
 12 clean up MTBE.
 13 Q. How long has Texaco been putting MTBE in its
 14 gasoline?
 15 MS. COOPER: Objection, calls for
 16 speculation.
 17 A. I don't know.
 18 Q. (BY MR. MILLER) Is Texaco sponsoring any
 19 research right now to get the answer to that question?
 20 MS. COOPER: Objection, calls for
 21 speculation, what question, vague.
 22 MR. MILLER: I'll rephrase.
 23 Q. (BY MR. MILLER) Is Texaco or your current
 24 employer doing anything to obtain information or data on
 25 how to clean up MTBE effectively once it's in

Page 71

1 groundwater?
 2 MS. COOPER: Objection, calls for
 3 speculation.
 4 A. The API studies that we have been referencing
 5 have that as one of their purposes.
 6 Q. (BY MR. MILLER) And today you're involved in
 7 making decisions on doing new research concerning this
 8 subject, is that correct?
 9 MS. COOPER: Objection, vague as to you.
 10 MR. MILLER: I mean him.
 11 MS. COOPER: Personally?
 12 MR. MILLER: Yes, as a member of the
 13 committee.
 14 A. Not directly.
 15 Q. (BY MR. MILLER) Don't you attend the meetings
 16 personally?
 17 A. I've only attended about two or three of those
 18 meetings.
 19 Q. Sometimes do you send a representative on your
 20 behalf?
 21 A. Sometimes, yes. But that committee doesn't make
 22 those decisions. They make recommendations, and then it
 23 goes to another committee.
 24 Q. I see.
 25 A. And I don't understand all the committees in API.

Page 72

1 Q. I know. You're trying to get track of the flow
 2 chart in the alliance.
 3 A. That I understand.
 4 Q. All right. When you're involved in making
 5 recommendations to fund research, I assume an effort is
 6 made to identify what research hasn't been done and needs
 7 to be done as contrasted with something that doesn't fit
 8 those criteria?
 9 MS. COOPER: Objection, assumes facts not
 10 in evidence, vague.
 11 A. The meetings that I have been in, all we are
 12 deciding is on the proposals that have been put in front
 13 of us as to funding of those programs and the allocation
 14 of a given set of amount of money, about which programs
 15 we are recommending should be funded, and to what levels.
 16 Q. All right. Have you ever been asked whether or
 17 not a study should be conducted as a part of the process
 18 you described to evaluate whether or not MTBE, when taken
 19 in orally, causes cancer?
 20 A. Not that I can recall.
 21 Q. Do you know of any API effort to undertake that
 22 study at this point?
 23 A. I have no idea.
 24 Q. Do you know of current research efforts to
 25 determine if there is a bug out there that will

Confidential - For Outside Counsel Only

Page 1

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----§
IN RE: METHYL TERTIARY BUTYL §
ETHER ("MTBE") PRODUCTS §
LIABILITY LITIGATION, § Master File No.
§ 1:00-1898
§
§ MDL 1358(SAS)
§ M21-88
This document relates to: §
§
COMMONWEALTH OF PUERTO RICO, §
et al., § Case No.
§ 07-civ-10470 (SAS)
§
Plaintiff, §
vs. §
§
SHELL OIL COMPANY, et al., §
§
Defendants. §

- - -

NOVEMBER 21, 2013

CONFIDENTIAL - FOR OUTSIDE COUNSEL ONLY

- - -

Videotaped deposition of IAN CHARMAN, as
30(b)(6) REPRESENTATIVE OF SHELL CHEMICAL YABUCOA,
INC., SHELL OIL COMPANY, SHELL TRADING (US) COMPANY;
SHELL WESTERN SUPPLY AND TRADING, AND SHELL
INTERNATIONAL PETROLEUM COMPANY, held at Sedgwick,
LLC, Fitzwilliam House, 10 St. Mary Axe, London,
EC3A 8BF, England, commencing at 9:12 a.m., on the
above date, before Joan L. Pitt, Registered Merit
Reporter, Certified Realtime Reporter, and
Professional Reporter.

- - -

GOLKOW TECHNOLOGIES, INC.
877.370.3377 ph | 917.591.5672 fax
deps@golkow.com

Confidential - For Outside Counsel Only

<p style="text-align: right;">Page 10</p> <div style="border: 2px solid red; height: 350px; width: 100%; margin-top: 10px;">REDACTED</div>	<p style="text-align: right;">Page 12</p>
<p style="text-align: right;">Page 11</p> <div style="border: 2px solid red; height: 350px; width: 100%; margin-top: 10px;">REDACTED</div>	<p style="text-align: right;">Page 13</p> <div style="border: 2px solid red; height: 150px; width: 100%; margin-top: 10px;">REDACTED</div> <p><u>12</u> Q. Okay. And, to your understanding, what</p> <p><u>13</u> entities are you here today testifying on behalf of?</p> <p><u>14</u> A. Shell Western Supply and Trading and Shell</p> <p><u>15</u> International Petroleum Company.</p> <p><u>16</u> Q. Okay. Were you employed by either of those</p> <p><u>17</u> entities at any point in time?</p> <p><u>18</u> A. Yes, both of them.</p> <div style="border: 2px solid red; height: 80px; width: 100%; margin-top: 10px;">REDACTED</div>

4 (Pages 10 to 13)

Confidential - For Outside Counsel Only

Page 54

REDACTED

Page 56

REDACTED

2 Q. Were those concerns -- when you came back to
3 Shell West, were those concerns ever discussed in
4 meetings with Shell Puerto Rico or Shell Yabucoa?
5 A. Not in that fashion, no. Not in the fashion of
6 talking about concerns about groundwater contamination
7 or anything. Not at all.

REDACTED

Page 55

REDACTED

Page 57

REDACTED

19 A. I was aware of the concerns regarding
20 groundwater contamination and MTBE, but only at a very,
21 very general level.

REDACTED

15 (Pages 54 to 57)

REDACTED

Joined Group service - 7th September 1970

REDACTED

31st July 2010 - last day in Group Service.

REDACTED

